

Remedial Action Program Guidelines



Aerial photo of Puget Sound

2003-2005



Solid Waste & Financial Assistance Program
Publication #99-505

June 2003

Abstract: These guidelines detail the funding levels, eligibility requirements, and application process for Ecology's Remedial Action Grants Program, which helps local governments with the costs of cleaning up hazardous waste sites.

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Remedial Action Grant Guidelines 2003-2005

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Solid Waste and Financial Assistance Program
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Please direct comments on these guidelines and suggestions for changes to the Solid Waste and Financial Assistance Program, (360) 407-6062.

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Introduction

Purpose

These guidelines will help you, the reader, understand the administrative policies and procedures of the 2003-2005 Remedial Action Grant Program. You can read the grant program's governing rule, Chapter 173-322 WAC, Remedial Action Grants, in Appendix 4, or visit our Web site at www.ecy.wa.gov/programs/swfa/grants.html.

When local governments have to clean up hazardous sites, the state of Washington, through the Department of Ecology (Ecology), offers remedial action grants to encourage and expedite cleanup activity. The grants lessen the impact of the cost to rate payers and taxpayers.

Categories of Grants

- **Site Study and Remediation** - These grants help local governments study and clean up hazardous waste sites where the local government is a potentially liable person (PLP), or owns a site but is not a PLP, or facilitates an area-wide ground water cleanup. *See page 6 for a detailed explanation of site study and remediation grants.*
- **Site Hazard Assessment (SHA)**- These grants help local health departments or districts in assessing the degree of contamination at suspected hazardous waste sites within their jurisdictions. *See page 12 for a detailed explanation of SHA grants.*
- **Safe Drinking Water Actions** - These grants help local governments or a local government applying on behalf of a purveyor to provide safe drinking water to areas where a hazardous substance has contaminated drinking water. *See page 16 for a detailed explanation of safe drinking water grants.*
- **Area-Wide Ground Water Contamination** – These grants enable local governments to assist the cleanup and redevelopment of property within their jurisdictions where ground water has been contaminated by hazardous substances from multiple sources. *See page 20 for a detailed explanation of area-wide ground water contamination grants.*
- **Voluntary Cleanups** – These grants help to offset some of the expense involved when a voluntary (independent) cleanup is performed and the local government enters into the agency's Voluntary Cleanup Program (VCP). *See page 23 for a detailed explanation of VCP grants.*
- **Methamphetamine Labs** – These grants aid local governments in the initial investigation/assessment of suspected methamphetamine laboratories and oversight of the cleanup activities within their jurisdiction. *See page 26 for a detailed explanation of Meth Lab grants.*
- **Derelict Ships** - These grants assist local governments with the costs of hazardous substance removal and disposal from derelict and abandoned vessels. *See page 30 for a detailed explanation of Derelict Ship grants.*

- **Underground Storage Tanks (UST)**– These grants help local governments who have underground storage tanks that need to be brought into compliance. *See page 33 for a detailed explanation of UST grants.*

Program History

In 1988, Washington voters passed Initiative 97, known as the Model Toxics Control Act (MTCA), Chapter 70.105D RCW. The Model Toxics Control Act authorized a remedial action grant program and designated it as the top priority waste grant program with Ecology. Remedial action grants were also issued under the authority of the 1987 Hazardous Waste Cleanup Act, Chapter 70.105B RCW, which the 1988 law superseded.

Funds for grants come from a tax on the first possession in Washington of certain hazardous substances. The act directed that 53 percent of the revenue from the tax be deposited in the Local Toxics Control Account for these grants. The act also directed Ecology to “adopt the rules for grant issuance and performance.” Chapter 173-322 WAC, Remedial Action Grants, adopted in May 1990, created the program described in these guidelines. Ecology amended the rule in 1993, to provide safe drinking water action grants. A rule amendment was adopted in 2001 to 1) provide loans; 2) add grant eligibility at area-wide ground water cleanups; 3) provide for an underground storage tank grant program; and 4) provide incentives to use treatment, recycling, and/or disposal technologies that result in a permanent cleanup of hazardous waste cleanup sites.

Environmental Equity

Environmental equity is important to Ecology and the State of Washington. Ecology defines Environmental Equity as:

"The proportionate and equitable distribution of environmental benefits and risks among diverse economic and cultural communities. It ensures that the policies, activities and the responses of government do not differently impact diverse social and economic groups. Environmental equity promotes a safe and healthy environment for all people."

Applicants are encouraged to include projects, eligible under these remedial action grant guidelines, that address environmental equity issues or that will have a positive environmental impact on diverse communities. Local community groups cannot receive remedial action grants directly for environmental equity projects. (Possible funding may be available through public participation grants. Only local governments are eligible for remedial action grants.)

For additional information on low-income areas and communities you can visit our Web site at http://ecy-hqapp10/Sustainability/EJ/EJ_Maps.htm and view over 50 new demographic maps for the state, tribes, counties and cities.

Program Funding

The Department of Ecology has allocated approximately \$25 million for remedial action grants in the 2003-2005 biennium.

Investments in Environmental Benefits

In support of the investment model developed by the Joint Legislative Audit and Review Committee for evaluating the Remedial Action Grants Program investment practices, Ecology modified the grant application. The following three categories appear on the application as eligibility criteria that must be met for a grant recipient to be awarded a grant:

1. Designated beneficial uses will be restored or protected
2. A public health emergency will be eliminated
3. Regulatory compliance will be achieved to address an order or decree

Baseline measurements will be relied on to compile output and outcome measures that directly relate to the program's investments. See Appendix 2 for an illustration of grant categories and corresponding environmental benefits.

Cleanup Process

A key goal of the Model Toxics Control Act is to encourage cooperation between interested parties in the identification and cleanup of sites contaminated by hazardous substances.

Phases of the Cleanup Process

Site Discovery

Sites where contamination is found must be reported to Ecology's Toxics Cleanup Program. At this point, potentially liable persons may choose to conduct independent cleanup without assistance from Ecology, but cleanup results must be reported to Ecology. Independent cleanups are done at the potentially liable person's own risk. Ecology may require additional cleanup actions at these sites at any time to bring them into compliance with state cleanup standards.

Initial Investigation

Ecology or a jurisdictional health department conducts an initial investigation of the site within 90 days. Based on information obtained about this site, a decision must be made within 30 days to determine if the site requires additional investigation, emergency cleanup, or no further action. If further action is required under the act, Ecology sends early notice letters to owners, operators, and other potentially liable persons, inviting them to work cooperatively with Ecology.

Site Hazard Assessment

Ecology or a jurisdictional health department conducts a site hazard assessment to confirm the presence of hazardous substances and to determine the relative risk the site poses to human health and the environment. Only local health departments or districts are eligible to receive these grants. Ecology will work closely with potentially liable persons to identify hazardous substances and characterize the site. See page 12 for details on site hazard assessment grants.

Hazard Ranking

The act requires that the sites be ranked according to the relative health and environmental risk each site poses. Ecology worked with the Science Advisory Board to create the Washington Ranking Method, which categorizes sites using data from the site hazard assessments. Sites are ranked on a scale of one to five. A score of one represents the highest level of risk relative to the other sites on the list; a score of five represents the lowest relative risk. Ranked sites are placed on the state Hazardous Sites List.

Remedial Investigation/Feasibility Study

A remedial investigation and feasibility study is needed to define the extent and magnitude of contamination at a site. The study also evaluates all potential impacts on the environment and alternative cleanup technologies. The reports completed in this phase are subject to a 30-day public review period.

Selection of Cleanup Action

Using information gathered during the study, a cleanup action plan is developed. The plan identifies the selected cleanup methods, and specifies cleanup standards and other requirements at the site. The plan is subject to a 30-day public comment period.

Site Cleanup

Actual cleanup begins when the cleanup action plan is implemented. This includes design, construction, operation, and monitoring of cleanup actions. A site may be taken off the Hazardous Sites List after cleanup is completed and Ecology determines cleanup standards have been met. Some sites require long-term monitoring to determine the effectiveness of the cleanup. It may take as little as six months or any number of years to establish that a site is “clean.”

Site Study and Remediation Grants

Who Can Receive a Site Study and Remediation Grant?

To receive a Site Study and Remediation Grant, the applicant must be a local government that is a potentially liable person (PLP) at a hazardous waste site, or owns a site but is not a PLP, or applies for a remediation grant for area-wide ground water contamination. **One of the following standards must also be met:**

- 1) Ecology must have required the local government to perform some phase of remedial action, or have approved or reviewed a completed remedial action. That requirement, approval, or review shall take any one of the following forms:
 - a) A consent decree under the Model Toxics Control Act (Chapter 70.105D RCW) or the Hazardous Waste Cleanup Act (Chapter 70.105B RCW) requiring remedial action at the site.
 - b) An enforcement order or an agreed order, under chapter 70.105D or 70.3105B RCW, prior to March 1, 1989, requiring remedial action at the site.
 - c) An enforcement order, consent order, or consent decree under the Water Pollution Control Act (chapter 90.48 RCW) requiring remedial action at the site, or an amendment to such an order subsequent to March 1, 1989.
 - d) An underground storage tank (UST) compliance order.
 - e) A no further action (NFA) determination issued after completion of an independent remedial action.
- 2) The local government is a potentially responsible party (PRP) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). As a PRP, the local government has entered with the U.S. Environmental Protection Agency (EPA) into a decree requiring remedial action at a hazardous waste site. This decree must have been signed or acknowledged by Ecology in writing as a sufficient basis for remedial action grant funding.
- 3) The local government must have signed an agreement with the Department of Ecology requiring another potentially liable person to perform remedial action at a landfill site and that requirement must take one of the forms specified under item 1, above. The local government must also have entered into an agreement with that potentially liable person to reimburse the potentially liable person for a portion of incurred remedial action costs with the sole purpose of providing relief to ratepayers and/or taxpayers from some remedial action costs.

What Activities do Site Study and Remediation Grants Cover?

Site study and remediation grants provide funds to assist local government efforts to conduct remedial investigations and cleanup actions.

Eligible Site Study and Remediation Costs

Eligible costs for the site study and remediation grants include reasonable costs, including sales tax, incurred in performing the following activities:

- Remedial investigations.
- Feasibility studies.
- Remedial designs.
- Pilot studies.
- Interim actions.
- Cleanup Action Plans.
- Other remedial action included in the order or decree, including landfill closure activities as required by chapters 173-304, 173-350 and 173-351 WAC beyond the requirements of the minimum functional standards, or included as part of the independent remedial action for which a no further (NFA) determination is issued.
- Capital costs of long-term monitoring systems.
- Operating costs and maintenance costs incurred during the first year of cleanup after the facilities and equipment have been installed or constructed.

(For grant funding costs already incurred prior to the date of a grant agreement (**retroactive costs**), refer to WAC 173-300-100. (For more information, call Diane Singer at (360) 407-6062.)

Ineligible Site Study and Remediation Costs

Ineligible costs include, but are not limited to:

- Retroactive costs that do not meet Ecology's reasonable cost limitations in WAC 173-322-100.
- Legal fees and penalties.
- Oversight costs.
- Operating and maintenance costs after the first year of accomplishing the remedial action.
- Operating and maintenance costs of long-term monitoring.
- Natural resource damage assessments and costs for source control or pollution prevention activities at sites other than landfills.
- Costs incurred in conducting independent requirements for source control and prevention at sites other than landfills.
- In-kind services.

All costs must be approved by Ecology in order to be eligible for reimbursement.

How to Apply For a Site Study and Remediation Grant

There is no set application period for site study and remediation grants. If an order or decree has been issued to a local government, the application for a grant must be made within sixty days, or for independent remedial actions, within sixty days of receipt of a no further action (NFA) determination. See Appendix 1 for application forms and instructions.

Address all Site Study and Remediation Grant related inquiries to:

**Diane Singer, Grant Manager
Remedial Action Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6062**

Financial Match Requirements For Site Study and Remediation Grants

Remedial investigations and feasibility studies (RI/FS), remedial designs (RD), interim remedial measures (IRM), and cleanup action plans and cleanup activities will usually be considered for funding at up to **50 percent** of eligible project costs.

A local government in a county that is defined as **economically disadvantaged** may receive up to **25 percent additional** funding. The local government must also provide satisfactory demonstration of extraordinary financial need. See page 40 for the criteria and current list of economically disadvantaged counties.

In the case of site study and remediation action with eligible costs of over two hundred thousand dollars, local governments who use treatment, disposal, and/or recycling as part or all of the cleanup action are eligible for an additional 15 percent funding. Preference will be given for innovative treatment technologies in terms of awards. This complies with WAC 173-340-370, expectations for cleanup action alternatives, in that treatment technologies will be emphasized at sites containing liquid waste.

Innovative technologies are newly introduced yet technically feasible remedial treatments that are not established due to lack of widespread use under different site-specific conditions, and therefore, have limited cost and performance data available. New technologies such as permeable reactive barrier, dual- phase extraction, and density-driven convection are reducing restoration time at significant cost savings. Other promising technologies include in-situ advance oxidation processes, bio-slurping, and phyto remediation.

Loans

Ecology will consider offering loans to local governments to encourage and expedite site study and remediation and area-wide ground water remediation projects. Loans will be considered on a case-by-case basis depending on the financial need of the local government and its ability to pay over a period of time. See page 37 for further information on loans.

Repayment of Grant Funds

If Ecology provides grant funds for an area-wide ground water contamination project to a local government where ownership of property affected by the grant is held by private parties, the grant amount shall be partially repaid to Ecology. Local governments will be required to obtain partial reimbursement from potential liable parties. The terms and amount of repayment will be included in the grant agreement between the local government and Ecology.

Settlements with PLPs and Insurance Companies

In general, the Department of Ecology wants to expedite cleanups by encouraging interested parties to cooperate in bringing an optimum level of private and public resources to the task of cleanup. Remedial action grants are intended to “jump-start” cleanups by providing up-front financing, reducing the impact on the taxpayer of public cleanups, and attracting other private and public dollars to facilitate cleanup.

During budget and application development it is the responsibility of the local governmental entity to identify all the potential sources of public and private cleanup financing, including grants, matching funds, other types of public financing, current and future anticipated settlements with other potentially liable persons, and insurance companies.

Applications require a name and phone number of a contact person in the applicant organization with whom Ecology shall coordinate the reimbursement of settlement payments. Additionally, quarterly progress reports shall include a section addressing the status of local government activities to obtain settlement contributions.

Settlements with PLPs

PLPs bear financial responsibility for remedial action costs. If a decree or order requires a PLP other than the local government to conduct remedial action, the financial contribution of that PLP will be deducted from the amount eligible for grant funding. The grant-eligible project cost will be the remaining cost of the remedial action project after the contributions of the other PLPs have been deducted. Ecology will adjust the grant if settlements with other PLPs are reached while cleanup activities are in progress.

If a local government successfully pursues a private right of action against a PLP after the cleanup is completed, then the local government shall reimburse Ecology for a proportionate share of the moneys received, after deducting the local government’s legal fees for pursuing the action.

Settlements with Insurance Companies

A local government may receive proceeds from an insurance claim for a cleanup. If the insurance proceeds cover the costs that are eligible for grant funding and are within the grant scope of work, the local government may use the proceeds as local match, up to the amount of the total match requirement. If the proceeds are more than the required match, Ecology will only provide grant funding for the difference between the insurance proceeds and the total remedial action costs.

This holds true even if the insurance settlement comes after the grant has been issued. If a local government receives a grant and then subsequently receives the proceeds from an insurance claim that is less than the difference between the total remedial action cost and Ecology's grant, then the local government may retain all of the proceeds from the insurance claim. However, if the insurance proceeds are greater than the difference between the total remedial action cost and Ecology's grant, then the local government must reimburse Ecology for any project expenditures already funded by the grant.

Funding Cap

After the remedial investigation and feasibility study have been completed and a final cleanup action plan has been developed, Ecology and the applicant will establish a final cleanup budget and negotiate a grant agreement. The dollar amount awarded by Ecology could be for the entire amount of grant funds needed to complete the project, or depending upon funds available, the funding may be awarded in annual or biennial increments according to phases of the project over time.

Prioritization and Evaluation

When pending grant applications or anticipated demand exceed the amount of funds available, the Department of Ecology may prioritize applications or limit grant awards based on the following criteria:

- Relative hazard ranking as determined by Ecology in accordance with the Model Toxics Control Act Cleanup Regulation (WAC 173-340-330) or the U.S. EPA National Priorities List ranking. Higher ranking sites will receive higher funding priority.
- Evidence that the grant is necessary to expedite cleanup.
- Relative readiness of the applicant to proceed promptly with the project.

In addition to using the priority list from the regulation, Ecology has developed internal guiding principles to assist in making awards. Those principles are:

- Focus on worse first – Worst first is based on relative hazard ranking, threat to ground water/drinking water, threat to human health and environment, readiness to proceed, and emergency actions.
- Continuing Projects – These are ongoing projects that are currently under grant agreement and continue to need some level of funding in order to complete the remediation. Priority may be given to fund, to the extent possible, projects in this category.
- Cover as many sites as possible – If demand exceeds the funds available Ecology will strive to provide funding amounts to as many sites as possible without impeding the cleanup.

Funding awards may be given to cleanup projects in phases over time, rather than one initial award for the entire cleanup.

- Ability of PLP(s) to pay – Applications will be evaluated as to both the ability of the local government to fund the cleanup site without grant funding and the impact that a lack of grant funding would have on the cleanup site.

Site Hazard Assessment Grants

Ecology maintains a list of all sites in the state that are presumed contaminated based on a short review called an “initial investigation.” The next step, called the “site hazard assessment, (SHA)” is a more intensive confirmation of the type and level of contaminants present. The results of the site hazard assessment are used by Ecology to rank the sites by order of hazard. This allows Ecology to set program priorities.

Who Can Receive a SHA Grant?

To receive an SHA Grant, the applicant must be a local health department or district that is not suspected to have contributed to the release of a hazardous substance at the sites being assessed and no conflict of interest exists.

What Activities do SHA Grants Cover?

Site hazard assessment grants supplement Ecology’s effort to:

- Rank hazardous waste sites.
- Encourage local government initiative in cleaning up hazardous waste sites.
- Expedite cleanup actions.

Site hazard assessment grants may be used to investigate public or private sites, with priority given to public sites. For economy and efficiency, most grants should be written to cover several local sites. The sites cannot have been previously assessed by the Department of Ecology or the U.S. Environmental Protection Agency. The Department of Ecology and the local health department or district will negotiate an agreed upon list of sites to be assessed, with the Department of Ecology having final approval.

Eligible Activities for Site Hazard Assessment Grants include the costs of any tasks which enable the local health department or district to participate in Ecology’s site ranking and priority-setting process. The activities must be pursuant to the site hazard assessment section of the Model Toxics Control Act Cleanup Regulation (WAC 173-340-320). Examples of these activities include:

- Identifying the hazardous substances, including what was released or is threatened to be released, and/or (if known) what products of decomposition, recombination, or chemical reaction are currently present on site and estimating their quantities and concentrations.
- Gathering evidence confirming a release or threatened release of hazardous substances.
- Describing the facilities containing the releases and their condition.
- Identifying the location of all areas where a hazardous substance is known or suspected.
- Considering surface water run-on and run-off and the hazardous substances leaching potential.
- Making preliminary characterizations of the subsurface and ground water actually affected or potentially affected by the release.
- Identifying the preliminary evaluation of receptors at the site, including distances to these receptors.

- Acknowledging any other physical factors that may be significant in estimating the potential or current exposure to sensitive biota.

Eligible SHA Costs

Eligible costs for site hazard assessment grants include reasonable costs, including sales tax, for the following:

- Salaries/Benefits.
- Equipment (has to have prior written approval from Ecology's Grant Manager).
- Training (has to have prior written approval from Ecology's Grant Manager).
- Notification process.
- Administration consistent with the Administrative Requirements for Ecology Grants and Loans, Publication Number 91-18.
- Sampling/Analysis.
- Laboratory costs.
- Scoring costs (Ranking).

Ineligible SHA Costs

Ineligible costs include:

- Retroactive costs.
- Legal fees and penalties.
- Court costs.
- Administration proceedings.
- Capital purchases not directly related.
- In-kind services.

SHA Work Plans

All grant costs must be approved by Ecology to be eligible for reimbursement. Ecology will negotiate with the local health department or district on a scope of work (including specific sites needing assessments) and budget to be included in the SHA grant agreement.

The Department of Ecology retains the authority to review and verify the results of site hazard assessments. A grant for a site hazard assessment does not obligate Ecology to provide further funding for study or cleanup at the site, or to initiate enforcement action.

Work plans for site hazard assessments must conform to the site hazard assessment section of the Model Toxics Control Act Cleanup Regulation. The Department of Ecology's publication, *Site Hazard Assessment and Guidance Procedures for Washington Ranking Method* (WDOE 91-73), can assist you in preparing a work plan. Call Michael Spencer at (360) 407-7195 for copies. Please refer any site hazard assessment questions that are **not related to the grant** to Mr. Spencer or your regional contact.

Regional SHA Contacts:

Northwest Regional Office

Louise Bardy – (Whatcom, Skagit, King, Island, Snohomish, and Kitsap)
425-649-7209

Southwest Regional Office

Dan Alexanian – (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) 360-407-6249

Eastern Regional Office

Patti Carter – (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) 509-329-3522

Central Regional Office

Dick Bassett - (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, and Yakima)
509-454-7839

Site Hazard Assessment Coordinator – Headquarters

Michael Spencer – (360) 407-7195

How to Apply for a Site Hazard Assessment Grant

Local health departments or districts can submit applications for site hazard assessment grants at any time. See Appendix 1 for application forms and instructions.

Address all SHA grant related inquiries to:

**Michelle Payne, Grant Manager
Site Hazard Assessment Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6129**

Financial Match Requirements for SHA Grants

Eligible costs for site hazard assessments will be considered by the Department of Ecology for grant funding of up to **100 percent**.

Ecology will negotiate with the local health department or district on the amount of grant funds to be awarded based on the scope of work.

Prioritization and Evaluation

When pending grant applications exceed the amount of funds available, Ecology may prioritize applications based on the following criteria:

- a) Potential public health or environmental threat from the sites.
- b) Ownership of the site, with publicly-owned sites receiving funding priority over privately-owned sites.
- c) The relative readiness of the applicant to proceed promptly in accomplishing the proposed scope of work.

Safe Drinking Water Action Grants

The Washington State Department of Health and the Department of Ecology both have roles regarding safe drinking water action grants. The Department of Ecology provides funding through the Remedial Action Grants Program and administers the grant so that remedial action goals are met. Health identifies sites and provides technical oversight to ensure that state regulations regarding drinking water are met.

Who Can Receive a Safe Drinking Water Action Grant?

To receive a Safe Drinking Water Action Grant, the applicant must be a local government that owns or operates a public drinking water system, or a local government applying on behalf of an entity that owns or operates a public drinking water system. The applicant must also meet the following additional standards:

- The Department of Ecology has determined that the subject water system is in an area that is a hazardous waste site or threatened by contamination from a hazardous waste site.
- The Department of Health has determined that the applicant is in substantial compliance with applicable rules of the Washington State Board of Health or the Department of Health, as contained in the following:
 - Public water supplies (Chapter 246-290 WAC)
 - Water works operator certification (Chapter 246-292 WAC)
 - Water System Coordination Act (Chapter 246-293 WAC)
 - Drinking water operating permits (Chapter 246-294 WAC)
- The water system must show Maximum Contaminant Levels (MCL's) exceeding:
 - the standards for public water supplies (WAC 246-290-310); or
 - EPA standards as determined by the state Department of Health; or
 - Ecology's standards set by the Model Toxics Control Act cleanup regulation (WAC 173-340-700 through 173-340-760).

The Department of Health must certify that a contaminant threatens the safety and reliability of a public water system and that the threat cannot be remedied solely by operational solutions.

The contaminants must include at least one hazardous substance. If the contaminant is a nitrate or a trihalomethane, it must be determined to have originated from a hazardous waste site.

- An order or decree must be issued to any identified potentially liable persons (PLPs), requiring that safe drinking water be provided to the contaminated area as a remedial action. Ecology may waive this requirement to protect public health.

What Activities do Safe Drinking Water Action Grants Cover?

Safe drinking water action grants supplement local government efforts to provide safe drinking water to residents living in an area where a hazardous waste site has contaminated a public water system.

Eligible Safe Drinking Water Action Costs

Eligible costs for safe drinking water action grants include reasonable costs, including sales tax, for the following:

- Treatment equipment and facilities, including air stripping towers, package treatment plants, point-of-use treatment systems, and similar approaches.
- Costs identified by Ecology as necessary to protect a public water system from contamination from a hazardous waste site or to determine the source of such contamination.
- Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable accessories.
- Transmission lines between major system components, including inter-connections with other water systems.
- Distribution lines from major system components to system customers or service connections.
- Fire hydrants.
- Service meters.
- Project inspection, engineering, and administration.
- Other costs identified by the Department of Health as necessary to provide a system that operates in compliance with federal and state standards, or by the coordinated water system plan as necessary to meet required standards.
- Individual service connections, including any fees and charges, provided that property owners substantially participate in financing the cost of such connections.
- Drinking water well abandonment for wells identified by Ecology as an environmental safety or health hazard according to the Minimum Standards for Construction or Maintenance of Wells (WAC 173-160-415).
- Interim financing where necessary as a prerequisite to local government issuance of revenue bonds.

Ineligible Safe Drinking Water Action Costs

Ineligible costs for safe drinking water action grants include:

- Legal fees and penalties.
- Ecology oversight costs.
- Operating and maintenance costs.
- Retroactive costs, except for those specified in WAC 173-322-100.
- Natural resource damage assessment.
- Costs for source control or pollution prevention activities at sites other than landfills.
- In-kind services.

All costs must be approved by the Department of Ecology in order to be eligible for reimbursement.

Alternative Solutions for Water Contamination

The purpose of safe drinking water grants is to remedy water contamination problems caused by hazardous substances. Generally, the solutions fall into three categories: treatment, extension of an existing water system, or providing a new water source. Unless it is clearly demonstrated to the contrary, the solution preferred for funding is treating the water and eliminating the source of contamination. There are four reasons for this preference:

- 1) The authority for the grant program is the Model Toxics Control Act. The purpose of this act is to clean up hazardous waste sites rather than provide water supply infrastructures.
- 2) Increasing pressure on the state's water resources means that conservation of clean, unused water supplies is important. Cleansing or treating an otherwise adequate water supply is preferable to abandoning it and tapping into a new aquifer, provided that technologically and economically sound treatment approaches exist for the particular contaminants.
- 3) Treatment systems can be faster and cheaper solutions to health concerns than extending water lines or providing new water sources.
- 4) Treatment systems can be solutions to identified water contamination problems without triggering water system charges, growth management issues, or annexation concerns.

How to Apply for a Safe Drinking Water Grant

Local governments may submit applications for safe drinking water action grants at any time. If an order or decree has been issued to a local government, application for the grant must be made within 60 days after the effective date of the order or decree. See Appendix 1 for application forms and instructions.

Address all Safe Drinking Water grant related inquiries to:

**Diane Singer, Grant Manager
Remedial Action Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6062**

Financial Match Requirements for Safe Drinking Water Grants

Safe drinking water action projects will be considered by Ecology for funding at up to **50 percent** of eligible project costs. A local government in a county that is considered economically disadvantaged may receive up to **25 percent** of total eligible project costs as additional funding. The local government must also provide satisfactory demonstration of extraordinary financial need. See page 40 for the definition and current list of such counties.

The Department of Ecology may make grant offers below the maximum percentage share and may fund all or part of eligible grant activities. Funding from either the local government or a PLP may be used to match grant funds.

Prioritization and Evaluation

When pending grant applications exceed the amount of funds available, Ecology may prioritize applications, based on the following criteria:

- Relative risk to human health as jointly determined by Ecology and the state Department of Health, in accordance with the regulations for Model Toxics Control Act Cleanup (WAC 173-340-330) and Public Water Supplies (WAC 246-290-310). Sites with greater risk will receive a higher funding priority.
- Relative readiness of the applicant to proceed promptly with the project.
- Ownership of the water system to be extended or improved. Local government-owned systems will receive higher funding priority than other systems.
- Number of people served by the water system and per capita cost of remediation.

Area-Wide Ground Water Remediation Grants

The purpose of the area-wide ground water remediation grants is to enable local governments to assist the cleanup and redevelopment of property within their jurisdictions where ground water has been contaminated by hazardous substances from multiple sources. The goal is to develop area-wide solutions, including investigation work plans, model remedies, or area-wide determinations on whether ground water is drinkable.

Who Can Receive an Area-Wide Ground Water Remediation Grant?

Only a local government eligible for financial assistance may apply for the area-wide ground water remediation grants. “Local government” means any political subdivision, regional-government unit, district, municipal, or public corporation, including cities, towns, and counties. The local government may be a potentially liable party at a site, may own a site without being liable for contamination, or may not own a site but applies for a grant to facilitate the cleanup of contaminated ground water at a site in its jurisdiction. The local government must agree to administer or manage the grant and to act as the project lead or sponsor. Ecology will negotiate with local government on a scope of work to be included in the grant agreement.

What Is the Definition of Area-wide Ground Water Contamination?

WAC 173-322-020 defines area-wide ground water contamination as “multiple adjacent properties with different ownerships affected by hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately.”

What Activities Do Area-wide Ground Water Contamination Grants Cover?

Eligible remedial activities are those that identify, eliminate, or minimize a threat or potential threat posed by hazardous substances to human health or the environment.

Eligible Area-wide Ground Water Contamination Costs

Eligible expenses include reasonable costs, including sales tax incurred in performing the following activities:

- Remedial investigations.
- Feasibility studies.
- Remedial designs.
- Pilot studies.
- Interim actions.

- Cleanup action plans.
- Landfill closures as required by Chapters 173-304, 173-350 and 173-351 WAC, if included in an order or decree for remedial action.
- Other remedial actions included in the order or decree for contamination cleanup.
- Capital costs of long-term monitoring systems.
- Operation and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

Ineligible Area-wide Ground Water Contamination Costs

Ineligible costs include:

- Legal fees and penalties.
- Oversight costs.
- Operation and maintenance costs after the first year of accomplishing the remedial action and costs of long-term monitoring.
- Retroactive costs, except as limited by WAC 173-322-100.
- Costs incurred to meet departmental requirements for source control and prevention.
- In-kind donations/services.

How to Apply for an Area-wide Ground Water Remediation Grant

Local governments may submit an application for an Area-Wide Ground Water Remediation grant at any time. See Appendix 1 for application forms and instructions.

Address all Area-wide Ground Water Remediation Grant related inquiries to:

**Diane Singer, Grant Manager
Remedial Action Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6062**

Financial Match Requirements for Area-wide Ground Water Remediation Grants

Area-wide ground water projects will be considered by the Department of Ecology for funding at up to 100 percent of eligible project costs. Requirements for a local government to financially match grant amounts can range between 0 to 50 percent with 25 percent additional funding for disadvantaged counties (see grants to economically disadvantaged counties on page 40). Local governments may apply contributions and reimbursements obtained from property owners to the match amount.

Repayment of Grant Funds

Grants given to local governments to clean up area-wide ground water contamination must be partially repaid to Ecology when private parties own the affected properties. Ecology expects local governments to maximize grant use by obtaining some reimbursement from potentially liable persons. Ecology will determine the pay-back amount on a case-by-case basis, and repayment terms will be included in the grant agreement between Ecology and the local government.

Prioritization and Evaluation of Grant Applications

When pending grant applications exceed the amount of funds available, Ecology may prioritize applications based on the following criteria:

- Relative hazard ranking as determined by Ecology in accordance with the Model Toxics Control Act Cleanup Regulation (WAC 173-340-330) or the U.S. EPA National Priorities List ranking. Higher ranking sites will receive higher funding priority.
- Evidence that the grant is necessary to expedite cleanup.
- Relative readiness of the applicant to proceed promptly with the project.

In addition to using the priority list from the WAC, internal guiding principles have been developed to assist in making awards. Those principles are:

- Focus on worse first – Worst first is based on relative hazard ranking, threat to groundwater/drinking water, threat to human health and environment, readiness to proceed, and emergency actions.
- Continuing Projects – These are ongoing projects that are currently under grant agreement and continue to need some level of funding in order to complete the remediation. Priority may be given to fund, to the extent possible, projects in this category.
- Cover as many sites as possible – If demand exceeds the funds available Ecology will strive to get “some” money to as many sites as possible without impeding the cleanup. Funding awards may be given to cleanup projects for phases of the project over time, rather than one initial award for the entire cleanup.
- Ability of PLP(s) to pay – Applications will be evaluated as to both the ability of the local government to fund the cleanup site without grant funding and the impact that a lack of grant funding would have on the cleanup site.

Voluntary Cleanup Program Grants

Voluntary cleanups are independent remedial actions that are voluntarily initiated by a potentially liable person. An independent remedial action may be conducted without the Department of Ecology's oversight or approval or may be undertaken with the Department of Ecology informal advice and assistance.

Who Can Receive a VCP Grant?

The grant applicant must be a local government that is the site owner or a potentially liable person at a hazardous waste site.

The applicant must have entered into the Voluntary Cleanup Program and received a written determination of no further action issued by the Department of Ecology under WAC 173-340-515(5)(b). *A copy of the Department of Ecology's determination must be submitted with the grant application* for the Department of Ecology to consider eligible for grant funding.

To contact the voluntary cleanup program coordinator at the Department of Ecology regional office where your site is located:

For counties in the **Central Region** (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, and Yakima) the coordinator is Frosti Smith at (509) 454-7851 or email at fsmi461@ecy.wa.gov.

For counties in the **Eastern Region** (Adams, Asotin Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) the coordinator is Patti Carter at (509) 329-3522 or email at paca461@ecy.wa.gov.

For counties in the **Northwest Region** (Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom) the coordinator is Joe Hickey at (425) 649-7202 or email at jhic461@ecy.wa.gov.

For counties in the **Southwest Region** (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) the Coordinator is Chuck Cline at (360) 407-6267 or email at chcl461@ecy.wa.gov.

What Activities Do VCP Grants Cover?

Voluntary cleanup grants provide funds to local governments who have completed an independent remedial action and received a no further action determination from the Department of Ecology. All costs must be substantiated with copies of supporting documentation of expenditures. **Local government must make application within sixty days after the receipt of a no further action determination.**

Eligible Costs for VCPs

Eligible costs for voluntary cleanup activities include reasonable costs and sales tax for the following activities:

- Remedial investigations/site characterization
- Sampling/analysis
- Assessment report
- Permitting and public notification
- Cleanup action plan
- Contamination removal and disposal
- Reasonable site restoration
- Contractor cost
- Contract management
- Closure report

Ineligible Costs for VCPs

Ineligible costs for voluntary cleanup activities include:

- Legal fees and penalties.
- Fees to enter into the Voluntary Cleanup Program.
- Costs incurred for Ecology's oversight and for technical assistance.
- In-kind services.

How to Apply for a VCP Grant

There is no set application period for voluntary cleanup grants. However, if a no further action determination letter has been issued to a local government, **the application for a grant must be made within sixty days.** See Appendix 1 for application forms and instructions.

Address all VCP grant related inquiries to:

**Diane Singer, Grant Manager
Remedial Action Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6062**

Financial Match Requirements for VCP Grants

Voluntary cleanup grants will usually be considered for funding up to **50 percent** of eligible project costs.

A local government in a county that is defined as **economically disadvantaged** may receive up to **25 percent additional funding**. The local government must also provide satisfactory demonstration of extraordinary financial need. See page 40 for the definition and current list of such counties.

Voluntary cleanup grants are available only for projects with eligible costs of up to \$200,000. This equates to a **funding cap of \$100,000 (or \$150,000 if economically disadvantaged)** in awards per site. The additional 15 percent funding for innovative treatment technology does not apply to voluntary cleanups.

Methamphetamine Lab Program

RCW 70.105D.070 provides funds to state and local governments to clean up hazardous substances. A number of activities are listed as being eligible for grant funds. One activity listed is “to assist local government in the assessment and cleanup of sites of methamphetamine (Meth) production activities, but not to be used for the initial containment of such sites.”

Meth Lab Grant Program Definitions

These following definitions apply to this grant program only.

Assessment: “Actions that are taken by a local health department or district to determine if a site is contaminated, identification and levels of the contaminants present, actions taken to post the site, and notification to the site owner.”

Cleanup action: “Any remedial action, except interim actions (see definition in Chapter 173-322), taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with cleanup standards, utilizes permanent solutions to the maximum extent practicable, and includes adequate monitoring to ensure the effectiveness of the cleanup action.”

Site: “Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.” (Also refer to definition of facility in WAC 173-340-200.)

Initial site containment: “The first location where hazardous substances are confined by a container, vessel, barrier, or structure, whether natural or constructed, with a defined boundary, and that prevents or minimizes its release into the environment.”

Who Can Receive a Meth Lab Grant?

To receive a Methamphetamine Lab Grant, the application must be a local health department or district that is not a potentially liable person (PLP) at the site(s) being assessed. ***The local health department or district must demonstrate substantial effort has been made to provide for handling and /disposal of drug lab waste at local moderate risk waste facilities, (especially if the moderate risk waste facility has received state funding for construction, maintenance, or operation).***

What Meth Lab Activities Are Covered?

Methamphetamine lab grants may be used to investigate public or private meth production sites, with a priority given to public sites.

Eligible costs for a meth lab grant program include any task which enables local health departments or districts to assess and if necessary, oversee the cleanup of illegal meth production sites. The activities must be consistent with the site hazard assessment section of the Model Local Toxics Control regulation (WAC173-340-320).

Eligible Meth Lab Costs

Eligible costs for the Methamphetamine Lab grant include reasonable costs for the following:

- Inspection of the property.
- Determination (assessment) of contamination, sampling and analysis costs.
- Contractor fees for public sites only.
- Assessor fees (specific circumstances with prior approval).
- Disposal fees (specific circumstances with prior approval).
- Equipment (need approval prior to purchase or approval of equipment list).
- Training (need approval of training plan).
- Posting site.
- Notification of property owners and those with a legal interest in the property.
- Notification of contamination on property title.
- Site-specific public notification activities to immediate surrounding property owners, when appropriate.
- Overseeing property cleanup with limitations prescribed in the Department of Health guidance:
- Reviewing and approving site cleanup plan
- Inspections during cleanup
- Approving completion of cleanup plan
- Releasing property to allow reoccupation.
- Administrative expenses consistent with the Administrative Requirements for Ecology Grants and Loans, Publication No. 91-18.

Ineligible Meth Lab Costs

Ineligible costs include:

- Initial site containment.
- Retroactive costs.
- Legal fees.
- Any activity that provides a gain to a private party.
- Boarding up or otherwise restricting access to privately owned sites other than posting the site and notifying the property owner.
- Destruction or landfill materials.

- Costs associated with assessing fines and penalties.
- Administrative proceedings.
- Other activities not consistent with the Model Toxics Control Act, rules, or guidelines.
- In-kind services.

Financial Match Requirements for Meth Lab Grants

Eligible cost for methamphetamine lab *assessment* activities will be considered by the Department of Ecology for grant funding up to 100 percent.

Methamphetamine production *cleanup action* activities on public sites will be considered for funding at up to 50 percent of eligible project costs. A local health department or district in a county that is considered economically disadvantaged may receive up to 25 percent additional funding. The local health department or district must also provide satisfactory demonstration of extraordinary financial need. **Methamphetamine production sites located on private property are ineligible for funding under this grant program.**

Grant funding will be prioritized by level of existing problem within the health department or district jurisdiction.

How to Apply for a Meth Lab Grant

The local health department or district may submit applications for methamphetamine lab grants at any time.

Address all Meth Lab Grant related inquiries to:

**Michelle Payne, Grant Manager
Meth Lab Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6129**

For ease of administration and application, methamphetamine labs grant applications can be combined with site hazard assessment applications. Please provide separate budget sheets for each program. Methamphetamine lab and site hazard assessment grant programs are considered separate and distinct programs. The Meth lab reporting form can be found in Appendix 3.

NOTE: Grant agreements can also be written combining the two separate grant programs into one grant agreement. However, grants funds will be awarded separately according to the scope of work and budget for each individual program. The grant agreement will have two separate budget groups, and funds cannot be transferred from one to another. In other words, site hazard assessment funding cannot be transferred to methamphetamine lab and vice versa.

Each grant program's administrative costs will be kept separate and not combined into one task for both programs.

Derelict Vessel Grants

House Bill 1349 added dealing with abandoned or derelict vessels to the list of eligible activities under the Remedial Action Grant Program. These grants assist local governments with the costs of hazardous substance removal and disposal aboard vessels when the substances cause a threat or potential threat to human health or the environment.

Other Funding Programs for Derelict Vessels:

The Department of Natural Resources has a derelict vessel removal and disposal grant program. This program can provide funding for derelict vessel(s) beyond the costs of hazardous substance removal and disposal. Additional information on the Department of Natural Resource Derelict Vessel Removal Program can be accessed via the internet at www.dnr.wa.gov/htdocs/aqr/derelict_vessels or call (360) 902-1075.

What Is the Definition of an Abandoned or Derelict Vessel?

According to law “abandoned or derelict vessels” means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel. For the purpose of this grant program eligible vessels can be either recreational or commercial.

Who Can Receive a Derelict Vessel Grant?

Local governments that meet the eligibility requirements may apply for these grants. “Local government” is defined as any political subdivision, regional governmental unit, district, or municipal or public corporation, including cities, towns, and counties.

Available Funding

There is a limit of \$25,000 per vessel. The grant recipient must provide a local match of cash expenditures, from 25 to 50 percent of the total eligible costs depending on economic status. In-kind contributions will not count as part of the required match.

What Activities do Derelict Vessel Grants Cover?

Eligibility requirements include demonstration that the vessels meet the definition of “abandoned or derelict vessel” and that the local government can prove ownership of the vessel.

Eligible Derelict Vessel Costs

Eligible costs for a derelict vessel grant include reasonable costs for:

- Removal and disposal of hazardous substances from abandoned and derelict vessels.
- Transportation cost for the disposal of the hazardous substances.

- Contractor fees.
- Administration/project management fees.
- Sampling and analysis.
- Costs of disposal of materials in a permitted facility to accept hazardous waste (RCRA Subtitle C), if the vessel materials or components designate as hazardous waste per Chapter 173-303 WAC.

Ineligible Derelict Vessel Costs

Ineligible costs for a derelict vessel grant include:

- Cost of hauling the vessel to the landfill.
- Disposal of the vessel at sea.
- Costs associated with the removal and disposal of solid waste materials.
- Processing costs associated with the local government taking ownership of vessel.
- Legal fees and penalties.
- In-Kind services

How to Apply for a Derelict Vessel Grant

Local governments may submit applications for derelict vessel grants at any time. See Appendix 3 for application forms. In the narrative statement required in the grant application, please include information addressing the following:

- Describe the environmental problem (potential threat to human and environmental health) and indicate how the proposed action will improve the environment in the area.
- Describe the vessel(s) and how the cleanup will be conducted.
- Describe the types and quantities of the hazardous substance (known or suspected) to be removed from the vessel(s).
- Describe how you have determined that the vessel(s) has little or no value.
- Was there an identified original owner and did that owner lack the financial resources to care for the vessel.
- Provide proof of ownership of the vessel(s) and/or describe how you have established that you have legal possession of the vessel. Describe what authority allows you to conduct the cleanup (such as municipal code, statute, etc.). Please attach a copy of the authority to your application.

Address all Derelict Vessel Grant related inquiries to:

**Diane Singer, Grant Manager
Remedial Action Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6062**

Financial Match Requirements for Derelict Vessel Grants

Derelict vessel grants will usually be considered for funding up to 50 percent of eligible project costs. A local government in a county that is defined as economically disadvantaged may receive up to 25 percent additional funding. See page 40 for the definition and current list of such counties. Derelict vessel grants are available only for projects with eligible costs of up to \$25,000 per vessel.

Underground Storage Tank Grants

The underground storage tank (UST) grant program provides funding to local governments (counties, cities, ports, fire districts, and school districts) for compliance with the Model Toxics Control Act for the decommissioning (i.e., proper removal or closure in place) of underground storage tanks.

Who Can Receive an UST Grant?

The grant applicant must be a local government that is the site owner or a potentially liable party for the facility or site containing an underground storage tank.

To meet grant eligibility you will need to:

- Send Ecology a “30-Day Notice” form prior to decommissioning the tank(s).
- Contact your regional Ecology office. Depending on your site you may negotiate a “Compliance Schedule” or request a “Grant Qualifying Letter.” The Department of Ecology will work with you to determine which option is best for your site.
- If you negotiated a “Compliance Schedule,” send it and your grant application to the Department of Ecology’s Remedial Action Grant Program
- Complete a tank closure packet after you decommission your tank.
- Send your completed tank closure packet to the Department of Ecology’s regional office where your site is located. At this time, if you are not on a “Compliance Schedule,” request a “Grant Qualification Letter” from your regional office.
- Send your “Grant Qualification Letter” and grant application to the Department of Ecology’s Remedial Action Grant Program.

If Contamination Is Found

Cleaning up small amount of contamination that is routinely part of a tank closure or removal is eligible for a grant. If the leak is more substantial, you have the option of entering Ecology’s Voluntary Cleanup Program and applying for a cleanup grant.

Regional Office UST Contacts:

To contact the underground storage tank coordinator at the Ecology regional office where your site is located:

For counties in the **Central Region** (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, and Yakima) the coordinator is Christine Zerby at (509) 454-7833 or email at czer461@ecy.wa.gov.

For counties in the **Eastern Region** (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman) the coordinator is Dave George at (509) 329-3520 or email at cgeo461@ecy.wa.gov.

For counties in the **Northwest Region** (Island, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom) the coordinator is John Wietfeld at (425) 649-7262 or email at jwie461@ecy.wa.gov.

For counties in the **Southwest Region** (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum) the coordinator is Norm Stewart at (360)407-6264 or email at nstew461@ecy.wa.gov.

What Activities Do UST Grants Cover?

Underground storage tank grants provide funds to assist local government efforts to decommission tanks.

Eligible UST Costs

Eligible UST costs include reasonable costs for:

- Site characterization/assessment.
- Sampling/analysis.
- Permit fees.
- Tank excavation and disposal.
- Soil removal, treatment, and/or disposal.
- Reasonable site restoration.
- Contractor fees.
- Contract management/administration.
- Site Assessment Report.

Ineligible UST Costs

Ineligible UST costs include:

- Legal fees and penalties.
- In-kind services.
- Unreasonable site improvements.

How to Apply for an UST Grant

There is no set application period for underground storage tank grants. Once you have received either a Compliance Schedule or a Grant Qualification Letter send a copy of it along with your grant application. See Appendix 1 for application forms and instructions.

Address all UST Grant related inquiries to:

**Diane Singer, Grant Manager
Remedial Action Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6062**

Financial Match Requirements for UST Grants

Underground storage tank grants will usually be considered for funding up to 50 percent of eligible project costs.

A local government in a county that is defined as economically disadvantaged may receive up to 25 percent additional funding. See page 40 for the definition and current list of such counties.

Loans

The Model Toxic Control Act (MTCA), RCW 70.105D.070 RCW authorizes the Department of Ecology to offer loans to local governments for site study and remediation and area-wide groundwater remediation projects. Ecology does not have a loan program at this time but will consider issuing loans on a case-by-case basis.

Who Can Receive a Loan?

The loan applicant must be a local government and meet the eligibility requirements as listed under the Chapters on site study and remediation (see page 6) and area-wide groundwater remediation (see page 20).

In order to establish eligibility for a loan, the local government must undergo a thorough third-party financial review to establish their financial need for the loan, their ability to repay the loan in a timely manner, and their inability to obtain funds from any other source. In addition, the site being studied and/or remediated must present an immediate danger to human health and the environment.

What Are Loans Used For?

Loans can be used by local governments to provide local match for remedial action grants for site study and remediation. Loans can also be used by local government to remediate the release or potential release of hazardous substances for site study and cleanup or area-wide ground water contamination.

What Loan Terms Are Available?

Terms for each loan are negotiated individually to provide quickest repayment of the loan possible without causing financial hardship to the local government.

How Much Money Is Available?

There is no specific amount set aside for loans. Any loan amount must come from the same allocation used to fund the remedial action grants and be subject to the same prioritization process.

Eligible and Ineligible Costs

Eligible and ineligible costs are the same as listed under the site study and remediation chapter, see page 37 and for area-wide ground water remediation, see pages 20 & 21.

How to Apply for a Loan

There is no set application period for loans. If an order or decree has been issued to a local government, the application for a loan must be made within sixty days.

Address all loan related inquiries to:

**Diane R. Singer, Grant/Loan Manager
Remedial Action Grants
Solid Waste and Financial Assistance Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6062**

Financial Information

Since loans can be used by local governments to provide match for site study and remediation grants the local government may be considered for up to 50 percent of eligible project costs in match.

A local government in a county that is defined as economically disadvantaged and meets the eligibility requirements under the independent financial review may be considered for a loan for the match up to 25 percent of eligible project costs.

Limits on Funding

Grants are contingent on the availability of appropriated funding. The fact that a local government is eligible or has received funding for initial phases of remedial action is no guarantee of continued funding. Separate grant agreements will be written for each major phase of remedial action and for discrete tasks and near-future time frames.

Ecology reserves the right to reject costs as excessive, even when work is fully approved from a technical standpoint. As a result, some tasks may be reimbursed at less than the allowable percentages. Do not assume that grant amendments will automatically follow cost increases.

After the grant budget is set, Ecology will maintain that budget total. Ecology will consider grant amendments to change the length of the agreement or reorganize the budget. Ecology will consider requests for increases in the total grant funding to that site, if the cost of remedial action increases. However, such amendments are not promised or guaranteed.

Administrative Requirements for Ecology Grants and Loans (WDOE 91-18, Revised October 2000) establishes the administrative requirements for all grants and loans administered through the Department of Ecology. It describes requirements for financial management, reporting expenditures and income, contracting, procurement, and retaining records.

Retroactive Funding

Retroactive funding of costs incurred prior to the date of the grant agreement is allowed only under certain circumstances. First the recipient must have an order or decree with Ecology signed after March 1, 1989. In addition, one or more of the following circumstances must apply:

- (a) The grant application period is closed when the order or decree becomes effective.
- (b) Ecology unreasonably delays the processing of the grant application.
- (c) There are inadequate funds in the Local Toxics Control Account to cover the entire scope of work required by the decree or order.
- (d) If the recipient has undertaken remedial actions not required by the decree or order, grants for this work may be made if Ecology later formally includes such work items in a decree or order.

Note: A rule change in 1999 limited eligibility of retroactive costs to a period no earlier than five years from the date of application.

Grants to Economically Disadvantaged Counties

While most identified hazardous waste sites are in large urbanized counties, some are located in counties that are commonly judged to be less able to pay for costly public projects. For that reason, they are often given special treatment in state financial assistance programs. A similar approach has been adopted for the Remedial Action Grants Program, where local governments in economically disadvantaged areas may be eligible for larger grants.

Economically disadvantaged areas are identified as county or any jurisdiction within the county where the most recent Office of Financial Management and Employment Security data indicate that:

- The county ranks in the bottom 20 statewide in per capita income; and
- The county is ranked “economically distressed” as defined by the law for Community Revitalization Team -- Assistance to Distressed Areas (Chapter 43.165 RCW) and computed by the Employment Security Department. To receive designation, a county must have had an unemployment rate 20 percent above the statewide average for the previous three years.

The Solid Waste and Financial Assistance Program updates the list every two years. The following counties are deemed disadvantaged based on current data.

Adams	Lewis
Columbia	Mason
Douglas	Okanogan
Ferry	Pacific
Franklin	Pend Oreille
Grant	Stevens
Grays Harbor	Wahkiakum
Klickitat	Yakima

Spending Plans

To track spending and efficiently monitor projected needs, Ecology requires all grant recipients to provide a spending plan showing expected needs by month or quarter. The spending plan must be updated quarterly or more often if major changes become evident. Ecology will compare the spending plans to actual costs billed on a regular basis to help the grant and site managers provide better oversight for the grant project and project funding needs.

The spending plan form is available on the Department of Ecology’s website at www.ecy.wa.gov/programs/swfa/grants.html or contact your grant manager, Diane R. Singer, at (360) 407-6062.

Cash Management

To better manage cash flow and provide the greatest amount of grant funds possible to recipients who are ready to proceed with cleanups, remedial action grants will be funded for each major phase of remedial action within a biennial time frame. Instead of receiving a grant for the entire costs of a project that may take multiple years to finish, the grant will be negotiated to provide enough funds to cover

expected expenses for a specific period of time. This time period is likely to be one year or one biennium. At the end of that time, actual spending will be reviewed and if all monies have been expended as planned, the grant may be amended to add funding, or a new grant agreement negotiated, for the next biennium.

This phased approach to funding cleanups allows more money to be available for awards each biennium by not committing funds to projects that are not making progress or are more than two years away from needing the funding.

Annual Financial Statement

The Department of Ecology grants manager may request a copy of the recipient's annual financial statement. This statement may be reviewed by the grant manager to provide Ecology with information to track potentially liable party contributions and insurance settlements over a period of time, that may ultimately affect grant funding.

Overhead Rate and Charges

The recipient may charge as overhead an amount equal to 25 percent of salaries and benefits of the recipient employees for time devoted specifically to the project. That amount is intended to include all costs in the categories below, which generally are not direct billed:

- Office furnishings and operating supplies (office furnishings, stationery/supplies, forms, cleaning supplies).
- Fuel consumed (to generate heat).
- Small tools and minor equipment for administrative use (calculators, fax machines, telephones, etc.).
- Professional services (auditors, management consultants, legal, custodial, janitorial, messenger services, etc., shared by the project and other recipient activities).
- Communication (includes but is not limited to basic telephone, cell phone, pagers, internet connections, facsimile and postage charges).
- Operating rentals and leases (rental costs for facilities or equipment—such as building or copy machines—that are shared by the project and other recipient activities).
- Insurance (fire, casualty, theft, bonds, liability, etc.).
- Utility services.
- Repairs and maintenance (labor and supplies to repair or maintain real or personal property).
- Miscellaneous (court costs, dues, subscriptions, memberships, laundry, information and credit services, printing and binding, judgments, damages, registration, tuition, etc.).
- Intergovernmental professional services (costs charged by other governmental entities for functions normally provided by governments and not by private businesses, such as police or fire protection).
- Capital outlays (costs of shared real property, equipment, easements, etc.).
- Intergovernmental interfund services (costs to other recipient departments for services rendered jointly to the project as well as to other recipient activities).

Securing and Managing Contracted Services

Using In-House Staff

Ecology strongly suggests using in-house staff to perform some remedial action grant project work, particularly site hazard assessments. Many health departments or districts have some sampling and research expertise already on staff. Grant moneys from this program can be used to hire such staff.

The purpose of a site hazard assessment grant is to provide funding for local staff to allow them to address the most significant suspected local hazardous waste sites. If local governments do the work in-house, they would not need to hire an outside consultant to perform the grant scope of work and they can save money as well as the time needed to go through the procurement process.

Contracting Out

Many remedial action efforts require contracting out for services because of the complex, large-scale, and specialized nature of the work. If you decide to contract out for remedial action services, you can help ensure you get the right consultant by asking questions and checking references about both the company and its staff members who would be working on the project. Also, ask about any subcontractors the consultant may propose to hire and how they will be used on the project. The firm you select must demonstrate not only that it is capable, but that it will have qualified staff available during your project's time period.

Start by compiling any readily available information about the site. Include potential sources of contamination and company records on hazardous substances used or stored at the site. Prepare a brief written description of the historical use of the site, the current use, and the work you think needs to be done.

Questions to Ask a Contractor:

These sample questions can help you in choosing a contractor:

- What is your firm's experience in performing this specific work and the subsequent work it might lead to? Request a list of similar completed projects, with references.
- Which portions of the work will the company subcontract? Are subcontractor activities competitively bid? Ask for names of subcontractors and check their experience.
- What is your firm's experience working with and satisfying regulatory agency requirements? Request a list of completed projects, with references.
- Do the firm's estimates of the time required to complete the work include time for agency review and approval?
- Which staff will be assigned to my project? Ask for current résumés. Ask the firm to specify staff roles. Request references, at least for the project manager.
- Will the assigned staff be available over the life of the project? Ask if the firm will provide additional staff if needed to get the job done.
- Is the firm's field staff trained in safety procedures as required by the Washington Industrial Safety and Health Administration (WISHA)?

- How do you propose to plan in the most cost-effective manner so that all short-term work will complement any potential long-term work? Ask the firm to prepare a proposal for the work to be conducted, a detailed cost estimate for the work proposed, and a “ball park” estimate for subsequent work required.
- Do the firm and its subcontractors have environmental liability insurance for this project? Should they?
- How will the investigation work affect activities at the site, for example, employee work schedules or customer and neighbor relations? Ask the firm to briefly describe their recommended approach to the work.

Engineering Services

It is not legal in Washington to select engineering or architectural services on the basis of price or low bid. When procuring these services, government agencies must first choose the best-qualified firm and then negotiate the price (Contracts for Architectural and Engineering Services, Chapter 39.80 RCW). To choose the best-qualified firm, you may use a Request for Qualifications (RFQ) solicitation. After selecting the best-qualified firm or firms on the basis of technical competence, organization strength, or other characteristics, you then negotiate a price for the services in the scope of work contained in the consent decree or enforcement order.

If you cannot come to terms with the first choice contractor, you are then free to negotiate with the second choice or second most qualified firm, then the third, and so on, until you can reach an agreement. It's a good idea to use a “hands-on” approach, such as a staff member assigned as a project manager, to oversee the consultant's work. Ask to have reports and contracts explained in everyday language. Make sure all work follows a detailed work plan subject to your review and approval.

Managing Costs

The project manager must seek to keep costs within bounds. Escalating costs do not obligate the Department of Ecology to increase grant amounts and Ecology reserves the right to reject costs as excessive. There are two methods consultants generally use to charge for work performed. The method you choose depends on the type and scope of your project.

Cost Reimbursement

The most common type of contract consultants use is the “cost plus fixed fee” contract. You will be charged for salaries and expenses plus a fixed fee to be determined by you and the consultant. This method works well for projects where the scope of work is unclear, extensive investigation is needed, or experimental processes are used.

Fixed Price

You will be charged a firm sum for the entire project. This method is generally used for small projects or when the scope of work can clearly be defined. Whichever method is used, be sure you set up clear, specific criteria by which to evaluate and compare estimates.

Some strategies which project managers may consider are:

- Check with other clients of the consultant you are considering hiring to evaluate actual performance relative to actual cost.
- Minimize layers of management staff involved in consultant work. Make sure contracts focus on technical work your staff cannot do, rather than on administrative, coordinating, and public participation work that they can do more cheaply.
- On construction contracts, local governments are required to put projects out to bid and select the low bidder. It may be wise to split remedial action work into design phases and drilling or construction phases. This way you can avoid paying the design consultant to oversee and subcontract for the construction phase, which adds overhead costs.
- When sufficient technical information has been gathered, proceed to negotiate the cleanup settlement rather than pursuing further costly investigations.

Minority and Women's Business Participation

Upon receiving grant funding, the local government/recipient agrees to utilize Ecology's goals for minority- and women-owned business participation in all bid packages. Achievement of the goals is encouraged; however, no contract award or rejection shall be made based on achievement or nonachievement of the goals.

Contracting for Goods and Services

Complete details about contracting for goods and services under an Ecology grant can be found in the Administrative Requirements for Ecology Grants and Loans, Publication No. 91-18, revised October 2000. To request a copy contact your grant manager, Diane Singer, at (360) 407-6062 or visit our web site at www.ecy.wa.gov/biblio/91018.html.

Basic Contract Provisions:

All contracts or purchase orders shall be written. Oral contracts are not permitted. The contract or purchase order must contain provisions to define a sound and complete agreement. Additional requirements include but are not limited to:

- Name and address of the contractor/vendor, effective and expiration dates (for contracts), Scope of Work and Maximum Cost.
- Administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, as well as such sanctions and penalties as may be appropriate.

- Suitable provisions for termination by the State of Washington or the recipient, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default.
- Retention of all required records for three years after Ecology makes final payments and all other pending matters are closed and access to such records by the state.
- Equal opportunity employment and non-discrimination.
- Notice of Ecology reporting requirements.
- Notice of Ecology patent rights and copyrights with respect to any discovery, invention, or rights in data that arises or is developed in the course of or under the contract.
- Mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).
- Designation of Ecology as an express third-party beneficiary.
- Compliance with the provisions of 40 U.S.C. 276a-276a-5 (Davis-Bacon) and state Prevailing Wage Laws (RCW 39.12), as appropriate.

NOTE: These requirements include a summary of statutory requirements. This summary is intended to provide grant recipients with an overview of contracting requirements only. Where these requirements do not conform to statute or regulation, the statute or regulation will apply. Recipients are referred to their procurement departments for further information.

General Practices

A recipient may contract to buy goods or services related to the project. In such cases, the recipient is required to follow procedures that ensure fair and open competition. Recipients will be required to provide written certification that they have followed their standard procurement procedures and/or applicable state law in awarding contracts; recipients with no formal procurement procedures will be required to certify that they have complied with the standards outlined below as well as applicable state law. Recipients receiving funds from federal sources must also observe applicable federal laws and regulations.

Any costs incurred as a result of procurement practices not in compliance with these or the recipient's normal procedures may be disallowed at the grant manager's discretion.

In awarding and administering contracts, recipients are to:

- Use sound business judgment
A recipient is to use sound business judgment and fair administrative procedures in procuring goods and services. This applies to invitations to bid, requests for proposals, solicitation of contractors or vendors, and awards of contracts or purchase agreements.
- Select responsible contractors
Recipients are to make awards only to responsible contractors with the ability to perform successfully under the terms of the agreement. Recipients are to consider such matters as

contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

- Ensure contractor compliance

Contractors are to adhere to the same terms and conditions as the recipient. The recipient is to ensure that contractors comply with all applicable federal, state, and local laws and regulations related to discrimination, labor and job safety, and environmental protection, and that contractors perform in accordance with the terms and conditions of their agreements. Where deviation from those terms is permitted by the recipient, the responsibility for any extra costs will be borne by the recipient and will not qualify as match.

- Provide a written contract document

Contracts must be written, must be enforceable and legally sound, and must include appropriate general conditions.

- Maintain standards of ethical conduct

Recipients are to maintain a code of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the recipient shall participate in the award or administration of a contract under a grant or loan if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- The employee, officer, or agent,
- Any member of his or her immediate family,
- His or her partner, or
- An organization that employs, or is about to employ, any of the above, or
- Has a financial or other interest in the firm selected.

The recipient's officers, employees, or agents must not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or other parties to contracts. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, the recipient's code of conduct will provide for penalties, sanctions, or other disciplinary actions for violations by its employees or agents, or by its contractor's employees or agents.

- Analyze purchases for cost-effectiveness

Recipients are to avoid purchase of unnecessary or duplicate items, and are to consolidate or break out purchases as appropriate to obtain a more economical price. Where applicable, the recipient is to analyze lease versus purchase alternatives in determining the most economical approach.

To foster greater economy and efficiency, recipients are encouraged to enter into local intergovernmental agreements for procurement or use of common goods and services.

- Use state or federal surplus property when possible

Recipients are encouraged to use federal or state excess and/or surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

- Resolve disputes promptly and fairly

Recipients are responsible for the fair and just settlement of all contractual and administrative issues related to contracts for goods and services. Such issues include, but are not limited to, source evaluation, protests, disputes, and claims. This does not imply that the recipient is to be relieved of any contractual responsibilities under its contracts.

Ecology will not substitute its judgment for that of the recipient unless the matter is primarily an Ecology concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Recipients must have protest procedures for handling disputes relating to contracts and will disclose all information regarding protests to Ecology. A protestor must exhaust all administrative remedies with the recipient before pursuing a protest with Ecology. Ecology will limit its review of protests to violations of state law, regulations or the standards set forth in this document, and violations of the recipient's protest procedures in its failure to review a complaint. Ecology will refer all other protests to the recipient.

Minority- and Women-Owned Business Enterprises

The Office of Minority and Women's Business Enterprises (OMWBE) has established goals for the participation of minority- and women-owned businesses in procurements made with Ecology funds. In accordance with the provisions of I-200, meeting these goals is voluntary and no contract award or rejection shall be made based on achievement or nonachievement of the goals. Achievement of the goals is encouraged, however, and the recipient and all prospective bidders or persons submitting qualifications must take the affirmative steps set forth in the grant agreement, in any procurement.

Recipients may use their OMWBE goals when they are greater than the goals specified in the grant agreement.

Any Ecology funds passed through grant or loan recipients to reimburse private entities are subject to OMWBE goals. The grant or loan agreement will specify the OMWBE goals relevant to the project. As a condition of the award, the recipient is to certify, by execution of the grant agreement, that it will ensure compliance with the affirmative steps set forth in the grant agreement. In addition, any contract awarded under a grant or loan must specify the percentage of total dollars, if any, awarded to a qualified minority- or women-owned businesses.

Soliciting Contractors for Public Works

Public works include all construction, other than ordinary maintenance, funded, in whole or in part, by state funds. Recipients are required by law to follow state statutes in procuring and administering contracts for public works. This section, together with the Standards for Competitive Solicitation below, sets out only a general overview of requirements for public works contracts. Recipients are referred to their own procurement procedures and to applicable state law for full and current requirements.

Applicable statutes include:

Chapter 35.01 RCW	<u>City Classifications</u>
Chapter 35.22 RCW	<u>First Class Cities, Public Works Procurement</u>
Chapter 35.23 RCW	<u>Second and Third Class Cities, Public Works Procurement</u>
Chapter 39.04 RCW	<u>Public Works</u>
Chapter 39.08 RCW	<u>Contractor's Bond</u>
Chapter 70.150 RCW	<u>Water Pollution Control Facilities</u>
Chapter 35.21 RCW	<u>Solid Waste Handling Facilities: Contracts for Vendors (Cities)</u>
Chapter 36.59 RCW	<u>Solid Waste Handling Facilities: Contracts for Vendors (Counties)</u>

Total cost

The total cost of a public works contract is defined as the cost (including applicable sales tax) of materials, supplies, equipment, and labor on all phases of the project. Recipients are referred to Chapter 84.04 RCW for specific exemptions to the application of sales tax.

Soliciting bids from advertisements

Most public works contracts must be procured after advertising for sealed bids. The requirement for soliciting bids depends on the total cost of the project and the class of the municipality. Recipients are referred to Chapter 35.01 RCW for current definitions of classes of municipalities, and to RCW 35.22.620 and 35.23.352 for restrictions on the use of force account work.

Soliciting bids from bidder's lists

For public works with a total cost of less than \$100,000, bids may be solicited from contractors on a pre-established small works roster. The number and kind of contractors from whom a bid must be solicited is established in RCW 35.22.620 and 35.23.352 according to the class of municipality. The award must be made to the contractor submitting the lowest responsive and responsible bid.

Bid bond

Generally, a bid bond of not less than 5% must accompany the proposal. After award, bonds must be returned to all bidders, except that of the successful bidder. That deposit must be retained until a contract is entered into and a bond to perform the work furnished. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a performance bond within ten days of notification of the successful bid, the amount of the bid bond is forfeited to the buyer.

Bid contents

At a minimum, the bid is expected to include the name and license number of the contractor, the name and description of the project, a project budget and performance schedule, any applicable specifications required by the program, and the bidder's acknowledgement that she or he is familiar with the project and has received any and all information relevant to the project.

Selecting the successful bidder

Bids must be opened and read (usually publicly) as prescribed by local ordinance. Generally no negotiation with bidders is permitted after the bids are opened; all bids must be rejected or the bid awarded to the lowest responsive and responsible bidder. The determination of the lowest responsible bidder is left to the discretion of the recipient, but any decision to award the contract to any but the lowest bidder must be documented and supportable. Ecology approval may be required for award or rejection of any bid.

Awarding contracts

The successful bidder is to be notified promptly by mail and informed concerning the time period required to execute the contract and obtain the performance bond.

Performance or contract bond

RCW 39.08.010 requires that a public works contractor post a performance bond (generally 100 percent of the contract price). The bond is intended to ensure that the contractor faithfully performs all

provisions of the contract and pays all suppliers, laborers and subcontractors for goods and services provided.

Administering contracts

Contractors are generally reimbursed for actual costs incurred on a monthly basis, less any retainage stated in contract documents. Recipients are referred to RCW 60.28.010 for regulations governing administration of the retainage account. When the project is completed, the recipient must notify the Department of Revenue, including with the notice the affidavits of wages paid submitted by all contractors and subcontractors. No payment may be made from retained funds until the Department of Revenue certifies that all taxes have been paid and no claims from suppliers of goods or services exist, and until a period of 30 days has elapsed following unconditional acceptance of the project.

Change orders

Change orders should be made with caution, since excessive change orders without new bids may be challenged as evasions of the bid law. Change orders are permitted without invalidating the contract if the changes increase or decrease the amount due the contractor or alter the performance schedule. All change orders must be approved by Ecology.

Maintenance bond

Contractors may be required to post a maintenance bond for a specified period, intended to guarantee the material, workmanship, quality, and durability of the project.

Soliciting Contractors for Personal Services Contracts

Recipients will award contracts for personal services in a way that provides fair and open competition, and will be required to certify that they have followed their standard procurement procedures and applicable state law in awarding any personal services contracts.

Recipients with no formal procurement procedures will be required to certify that they have complied with the Standards for Competitive Solicitation Procedures outlined below for any personal services contracts over \$5000 (see also Chapter 39.29 RCW). In addition, such recipients must obtain any personal services contracts over \$20,000 by means of a formal bid process.

Soliciting Contractors for Architectural and Engineering Services

Recipients will award contracts for architectural and engineering services in a way that provides fair and open competition, and will be required to certify that they have followed their standard procurement procedures and applicable state law in making such awards.

Recipients with no formal procurement procedures will be required to certify that they have complied with the Standards for Competitive Solicitation Procedures outlined below. Recipients shall also comply with the provisions of Chapter 39.80 RCW, which provides that, except in an emergency, all architectural and engineering services shall be procured by a competitive solicitation. The competitive solicitation must select the most qualified applicant without consideration of price.

Soliciting Vendors for Purchased Goods and Services

Recipients will obtain purchased goods and services in a way that provides fair and open competition. Purchased goods and services include any materials, equipment, supplies or services offered for sale by a supplier that are not personal services or architectural and engineering services.

Recipients will be required to certify that they have followed their standard procurement procedures in procuring purchased goods and services. Recipients with no formal procurement procedures will be required to certify that they have complied with the Standards for Competitive Solicitation outlined below and have solicited procurements over \$7500 by means of a formal sealed bid (see Chapter 236-48 WAC).

Standards for Competitive Solicitations

In the conduct of a competitive solicitation, whether for supplies and materials or personal services, recipients shall conform to the following general standards:

- Publicize all requests for bids or proposals, identifying all evaluation factors and their relative importance. Recipients will ensure that any solicitation incorporates a clear and accurate description of the technical requirements for the goods or services. The description may include a statement of qualitative nature and any minimum essential standards to which the goods or services must conform in order to achieve the project purpose. Descriptions should avoid detailed product description, but when necessary, a "brand name or equal" description may be used as a means to define the performance or other salient requirements. In such cases, the specific features of the named brand that must be met must be clearly stated.

Any solicitation must also identify all requirements that the potential contractors must fulfill, and all other factors to be used in evaluating responses.

- Provide a period of adequate length to reasonably permit contractors to prepare a response.
- Solicit responses from an adequate number of qualified sources (usually at least three).
- Document the procedure used in evaluating the responses and in making the final selection.
- Select the contractor whose response is most advantageous to the project, considering price and other relevant evaluation criteria. Such criteria include, but are not limited to:
 - The price and the effect of any applicable discounts, rebates, or tax returns (NOTE: For architectural and engineering services the consideration of price is prohibited).
 - The quality of the articles proposed to be supplied, their conformity with the specifications, and the purposes for which they are required.
 - The ability, capacity, or skill of the respondent to perform the contract or provide the goods or services required.
 - The character, integrity, reputation, judgment, experience, and efficiency of the respondent.
 - The quality of performance on previous contracts.
 - Servicing resources, capability, and capacity.

- Lack of uniformity or interchangeability, if such factors are important.
- Energy efficiency of the product as projected throughout its anticipated useful life.
- Effect of reciprocity assessments, MWBE, or other preferences defined by statute.
- Such other information as may be secured having a bearing on the decision to award the contract.

Any or all responses may be rejected when it is in the recipient's interest to do so, provided such rejections are in accordance with applicable law and regulations. Rejection of responses may require Ecology approval.

- Publicize any amendment of the solicitation, change in response periods, and any other information relevant to potential respondents.
- Maintain bidders lists that are current and open to competition. Recipients are to ensure that all lists of prequalified persons, firms, or products that are used in acquiring goods and services are current, and include enough qualified sources to ensure maximum open and free competition. Also, recipients will not preclude potential bidders from qualifying during the solicitation period.

Recipients will not:

- Place unreasonable requirements on firms in order for them to qualify to do business.
- Require unnecessary experience and/or excessive bonding.
- Use noncompetitive pricing practices between firms or between affiliated companies;
- Make awards to consultants placed on retainer without competition either at the time of award or the time that they were retained.
- Establish organizational conflicts of interest.
- Take any arbitrary action in the procurement process.

Ecology Approval of Solicitations, Bids, Proposals, Awards and Amendments

The recipient may be required to submit all bid documents or proposals to the manager for written approval before soliciting responses, awarding any contracts, or rejecting bids.

The recipient may also be required to obtain written manager approval before making any amendment that changes the scope of a contract or increases the contract amount.

Cost Basis of Contract

No contracts may be written for "cost-plus-a-percentage-of-cost" or "percentage of construction cost." The cost basis for any contract must be cost-reimbursement, unit price, fixed-price, time and materials, or any combination of these four methods.

Recipients are to negotiate profit as a separate element of the price for any cost-reimbursement contract. To establish a fair and reasonable profit, consideration may be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's past performance, and industry profit rates in the surrounding geographical area for similar work.

Documentation

The recipient must keep supporting documentation relevant to all procurements, and must make it available for review by Ecology on request.

For all contracts and purchase orders, the recipient will establish a file to contain all of the following:

- Complete copy of the purchase order or contract (and any amendments).
- Copy of the Manager's approval, if any, of the award and any amendments.
- Invoices and records of payments by recipient.
- If the goods or services were not competitively procured, the justification and written approval from the Manager, if applicable.
- For any procurement made through a competitive solicitation:
 - Names, addresses, telephone numbers and business names of all candidates contacted.
 - Method of contact (copy of advertisement or bidder's list).
 - What the bidders were told (specifications of the invitation to bid or request for proposals).
 - Bidder's responses.
 - Name of successful contractor or vendor and written justification for selection.

Amendments and Grant Administration

Amendments

A grant may be amended to change tasks, change schedules, or redistribute funds within tasks. If a change is needed, you should notify the grant manager, in writing, of the required change. Once the change has been agreed to, the formal amendment process can begin.

Performance Monitoring

As a government agency, Ecology is accountable for the proper use of all grant funds. Performance monitoring is Ecology's ongoing review process of your performance to ensure accountability.

The objectives of performance monitoring are to determine if you are:

- Carrying out the scope of work described in the executed agreement.
- Administering the program in an effective and timely manner in accordance with the schedule and budget in the executed agreement.
- Complying with the Special and General Terms and Conditions of the grant agreement, as well as the Administrative Requirements for Ecology Grants and Loans and the Remedial Action Grants regulation.

To accomplish this, the grant manager reviews your progress reports, and draft and final grant-related documents. The grant manager may also conduct on-site inspections.

Progress Reports

Progress reports should be submitted with each payment request. At a minimum, a progress report shall be submitted each quarter. The grant manager and site manager will review the progress reports to learn how the activities are proceeding, reasons for any delays or cost overruns, and any other pertinent information.

A final progress report summarizing the entire project achievements is necessary before Ecology can make the final payment on your grant. In addition to these scheduled reports, you should notify the grant manager and site manager when any significant problems occur, or any changes take place in project staff or contractors. Included in Appendix 3 are templates for progress reporting.

Final Performance Evaluation

Ecology will close out the grant when it determines all applicable grant requirements have been met or the project has been terminated. All financial requests should be submitted within 45 days of the end of the agreement. The grant manager completes a final performance evaluation within 30 days after the receipt of the final report. After this, the grant agreement can be officially closed out.

Audits

All grants are subject to audit. The Department of Ecology has the right to audit the grant project for three years after the project is finished. The Department of Ecology may also audit the grant project at any time during the project.

Roles and Responsibilities

The Recipient

The recipient is responsible for conducting the remedial action activity according to these guidelines set forth by the Toxics Cleanup Program. The recipient must also:

- Manage the procuring of contractors for any of the grant eligible work and make a conscientious effort to control the cost of such work, while still attaining the objectives.
- Notify the grant manager when:
 - 1) Project scope of work changes;
 - 2) Timelines change; or
 - 3) Budget is exceeded or otherwise changes.
- Regularly submit project reports to the grant and site manager.
- Comply with all the terms and conditions of the grant agreement.

The Department Grant Manager

The grant manager from the Solid Waste and Financial Assistance Program will serve as the contact person for all grant-related issues from application to grant close-out, including but not limited to:

- Notifying potential recipients of the application dates and deadlines.
- Reviewing grant applications, including proposed scopes of work and budgets.
- Preparing the draft grant scope of work for review by the Ecology site manager and recipient.
- Negotiating the final grant scope of work and budget.
- Preparing the formal grant offer.
- Reviewing changes in the grant scope of work or budget; preparing grant amendments.
- Arranging for audits and grant close-out.
- Working closely with the state Department of Health on safe drinking water action grants to ensure compliance with regulations.

The Department Site Manager

The site manager is the person from the Department of Ecology's Toxics Cleanup Program responsible for:

- Providing technical assistance to the recipient.
- Negotiating the work plan for the investigation.
- Initiating or reviewing and approving changes in the scope of work in response to unforeseen developments.
- Advising the grant manager on technical adherence to the grant agreement and whether grant invoices should be paid.

Department of Health

State Department of Health staff identifies sites and provides technical oversight to ensure that state regulations regarding drinking water are met.

Appendix 1 - Application Forms and Instructions

Part I -- General Instructions

1. Applicant

- A. Name: Enter your agency's name.
- B. Department/Division: Enter the name of your department or division within the agency.
- C. Address: Enter your agency's mailing address.
- D. Tax ID Number: Enter your tax ID number. (We must have a tax ID number to write the agreement.)
- E. Type of Applicant: Enter your agency's classification. (Port districts are considered Special Purpose Districts)

2. Project Title

Enter the official name of the project. (Example: Cascade Pole RI/FS, if you have a site ID number add that as well.)

3. Cost of Project

Enter the total cost of the project. Then enter the total of the costs eligible for grant funding. (Example: the costs of a landfill cleanup, minus retroactive costs, or contributions from PLPs.) Then enter total grant requested. (This would be the grant percentage of the total eligible costs. Example: if the total cost of a project is \$1,000,000 and the eligible costs are \$700,000 then the total you can request is 50 percent of \$700,000 or \$350,000) *(Note: You can calculate these figures by completing "Part II - Budget" of the application form.)*

4. Project Period

Enter the estimated start and end date of the project.

5. Type of Grant

Enter the type of grant you are applying for. *(Note: Site study and remediation grants cover remedial investigations and feasibility studies, remedial designs, interim remedial measures and remedial actions.)*

6. Investment in the Environment

Enter the environmental benefits that will result from the project.

7. Project Location

Enter the county, municipality (if applicable), water resource inventory Area (WRIA), and legislative district where the site is located. (Refer to the map in Appendix 5 for the WRIA name and number, or call Solid Waste and Financial Assistance Program at [360] 407-6062 for the applicable name/number.)

8. Is the Project Covered by an Agreement?

Check the box for the type of settlement agreement that applies to your site.

Consent decree (Ecology), consent order, and enforcement order refer to cleanups required under the Model Toxics Control Act (Chapter 70.105D RCW) or the Hazardous Waste Cleanup Act (Chapter 70.105B RCW). **Consent decree (EPA)** refers to cleanups required under the federal Resource Conservation and Recovery Act. Ecology must sign or acknowledge such agreements in writing for the project to be eligible for a grant. **Agreed order** refers to cleanups

required under Chapter 90.48 RCW, Water Pollution Control. *Enter the official document number.*

9. Applicant Project Manager

Enter information for the person Ecology should contact if there are any questions about the project or this application.

10. Administration Contact

Enter information for the person who should receive the voucher reimbursements (checks) and the contact if there are any questions about the financial information.

Part II – Budget

Applicant's Name

Enter the name of the agency applying for the grant.

Section A - Narrative Statement

Address the items listed on additional sheets as necessary and attach to the grant application.

Section B -- Calculation of Ecology Grant

Enter the appropriate information for all project tasks for which you want grant funding.

SAMPLE

Item (Major Project Tasks)		Total Project Cost	Requested From Ecology	Estimated Date of Delivery or Completion
Task 1	Project Management	\$ 60,000	\$ 22,500	June 2005
Task 2	Field Work	190,000	95,000	October 2003
Task 3	Lab Analysis	40,000	20,000	December 2003
Task 4	Technical Reports	75,000	35,000	March 2004
Task 5	Community Relations	28,000	10,000	June 2004
Task 6	Feasibility Study and Work Plan	42,000	20,000	May 2005
Task 7	Administration & Management (local government)	<u>60,000</u>	<u>22,500</u>	June 2005
TOTAL		\$495,000	\$225,000	

Section C -- Budget Funding Source

Enter the information that shows where you will get the funds for the project.

Enter name of financial/legal contact information for tracking possible future contributions/settlements.

Part III -- Certification and Agreement

The application must be signed by your agency representative who is authorized to obligate funds. **If the application is not signed, it is not valid.**



Department of Ecology
SOLID WASTE AND FINANCIAL
ASSISTANCE PROGRAM
ECY 070-104

FOR ECOLOGY USE ONLY
Application No. _____
Site Manager _____
Site ID _____

APPLICATION FOR REMEDIAL ACTION GRANT

PART I - GENERAL INFORMATION

1. APPLICANT

Name _____ Address _____
(Street or PO Box No.)
Dept/Div _____
(Town/City, State and ZIP+4)
Tax ID Number _____
Applicant Type (Check appropriate box or boxes)
☐ State ☐ City ☐ Other (Specify)
☐ County ☐ Special Purpose District ☐ Health Department/District

2. PROJECT TITLE _____

3. COST OF PROJECT

Total \$ _____
Eligible \$ _____
Total Grant Requested \$ _____

4. PROJECT PERIOD

From _____
To _____

5. TYPE OF GRANT

☐ VCP ☐ Derelict Vessel ☐ Safe Drinking Water Action
☐ Meth Lab ☐ Site Hazard Assessment ☐ Area-wide Ground Water Contamination
☐ UST ☐ Site Study and Remediation

6. INVESTMENT IN ENVIRONMENT (Which of the following environmental benefits will result from the project proposal?)

☐ Regulatory compliance with MTCA ☐ Restore or Protect Designated Beneficial Uses
☐ Eliminate a Public Health Emergency
*** Note: See Appendix 2 for assistance.**

7. PROJECT LOCATION

County _____ Municipality _____
WRIA Name/No. _____ Legislative District(s) _____
Water Resource Inventory Area(s) (WRIA) _____

8. IS THIS PROJECT COVERED BY AN AGREEMENT?

☐ Consent Decree, Ecology/EPA ☐ Agreed Order, Ecology ☐ Other
☐ Prospective Purchaser Agreement ☐ Enforcement Order, Ecology _____

Please Note: Reference and attach consent decree, enforcement order, or agreed order. **Official Document No.** _____

9. APPLICANT PROJECT MANAGER

Name _____
Title _____
Address _____
Telephone (Include Area Code) _____
Fax No. _____
Email Address _____

10. ADMINISTRATION CONTACT (To whom checks are to be mailed)

Name _____
Title _____
Address _____
Telephone (Include Area Code) _____
Fax No. _____
Email Address _____

SECTION C – BUDGET FUNDING SOURCE	
ESTIMATED TOTAL COST OF PROJECT	
Contribution from other PLP's	\$ _____
Remaining Eligible Cost	\$ _____
REQUESTED GRANT AMOUNT	\$ _____
POSSIBLE FUTURE CONTRIBUTIONS / SETTLEMENTS	\$ _____
Financial / Legal Contact regarding Contributions / Settlements	
Name	_____
Title	_____
Address	_____
Telephone	_____
Fax	_____
Email	_____
MATCHING FUNDS BY SOURCE	
Cash	_____
General Obligation Bonds	_____
Insurance Settlements	_____
Local Improvement District (LID)	_____
Revenue Bonds	_____
Non-Ecology Grants (<i>Identify</i>)	_____
Other	_____
TOTAL MATCHING FUNDS	
PART III – CERTIFICATION AND AGREEMENT	
<p>The undersigned representative certifies that the information submitted herewith is true and correct to the best of his/her knowledge and belief, and is authorized to sign and submit this application.</p> <p>The applicant agrees that if a grant is awarded on the basis of this application or any revision or amendment thereof, it will comply with all applicable statutory provisions and with the applicable terms, conditions, and procedures of the Department of Ecology grant regulation and of the grant agreement.</p>	
Signature of Authorized Representative	Typed Name and Title
Date	Telephone No. (<i>include area code</i>)

If you require this publication in an alternate format,
please contact Solid Waste and Financial Assistance
at 360-407-6900 or TTY 711 or 1-800-833-6388.

Appendix 2 - Environmental Benefits Table

Applicants will need to indicate which of the following environmental benefits will result from a local government's proposal:

Grant	Key Decision(s) under MTCA	Performance Measure(s) – Outcome-Focused ¹	Environmental Benefit ²	Prioritization Factor ³
Site Hazard Assessment	When a complaint is received an initial investigation is triggered. The initial investigation determines whether an SHA is warranted. Confirm or rule out the release or threatened release of a hazardous substance.	Collect site data, analyze the data to determine NFA or score the site. (scope of problem is identified)	Regulatory compliance with Model Toxics Control Act.	Potential public health or environmental threat.
Site Study & Remediation	Determine the nature and magnitude of contamination and evaluate site information to adequately characterize the site. Determine cleanup action alternatives. Determine a cleanup action plan that will be permanent to the maximum extent possible.	Complete a remedial investigation. Select among cleanup action alternatives. Complete a cleanup action plan. Conduct a remedial action that protects human health and the environment. The final cleanup must have been approved (or reviewed, if an independent action) by Ecology.	Regulatory compliance with Model Toxics Control Act.	Relative hazard ranking according to Ecology's or EPA's listing.
Meth Lab	Determine that a meth lab requires immediate cleanup. Spills program initially contains the site. The jurisdictional health department/district (JHD) then posts the site and completes administrative actions.	Conduct an emergency action. Property owner is required to define scope of the problem and cleanup of the site. When site is cleaned up to satisfaction of JHD (dwelling) or Ecology (property) the site can be reused, if appropriate.	A public health emergency will be eliminated.	Potential public health or environmental threat.
Safe Drinking Water	Determine that a water system is in an area determined to be a hazardous waste site or threatened by contamination from a hazardous waste site.	A water supply source is developed and/or an alternate water supply is established.	Designated beneficial uses will be restored or protected and public health emergency will be eliminated.	Relative risk to human health.
Derelict Vessels	Determine that derelict vessel presents a potential threat to human health and the environment.	Vessel is removed and disposed of in a regulated facility.	Regulatory compliance with MTCA.	Potential public health or environmental threat.

¹ Under the Model Toxics Control Act, WAC 173-340, a hazardous waste site no longer poses a threat or potential threat to human health and the environment when cleanup standards are met following a remedial action.

² 2001 Legislature amended RCW 70.105D.100, Model Toxics Control Act, to require grant recipients to include the environmental benefits of the project into the grant applications. The amendment requires Ecology to utilize the statement of environmental benefit(s) in its prioritization and selection process.

³ The evaluation and prioritization criteria are found in WAC 173-322-070(1) (a); (2) (a); and (3) (a).

Appendix 3 - Progress Report Formats

- **Site Hazard Assessment**
- **Meth Lab**
- **Progress Report in Support of Request for Reimbursement**

Grant Recipient's Name _____
Grant Number _____

SHA Progress Report

For the period _____ through _____, 200__

PROJECT TITLE:

RECIPIENT MAILING ADDRESS:

TELEPHONE NUMBER:

CONTACT PERSON:

TASK 1: Initial Investigations

Overview – General Comments:

Site Specific Information

Date Received	ERTS#	Site or Address	Site Visit? (Y/N)	Date Report was sent to Ecology	Recommendations

Additional Comments:

Totals

Number initiated this period	
Number completed this period	
Number ongoing	
Number completed under Award	

TASK 2: Site Hazard Assessments

Overview – General Comments:

--

Site Specific Information

Date Received	ERTS#	Site or Address	Site Visit? (Y/N)	Date Report was sent to Ecology	Recommendations

Additional Comments:

--

Totals

Number initiated this period	
Number completed this period	
Number ongoing	
Number completed under Award	

TASK 3: (if applicable)

TASK 4: (if applicable)

If more tasks are in a specific grant, continue numbering the tasks in sequential order.

Grant Recipient's Name _____
Grant Number _____

Work Progress Report
Methamphetamine Lab Grant # _____
Name of Local Health Agency _____

PROJECT TITLE:**RECIPIENT MAILING ADDRESS:****TELEPHONE NUMBER:****CONTACT PERSON:****REPORTING PERIOD:****TASK 1:**

NUMBER OF NEW SITES	
CONTINUED SITES	
NUMBER OF SITES COMPLETED THIS PERIOD	
TOTAL COMPLETED WITHIN GRANT	

SITE SPECIFIC INFORMATION

Site name

Site location

Date

Activities completed

Remaining activities (if applicable)

TASK 2: (If applicable)

Progress Report in Support of Request for Reimbursement

Invoices and Progress Reports must match the Tasks in the Award

Recipient: _____

Grant #: _____

Reporting Period: _____

Project Task as listed in the Grant Award	Narrative Description of Activities Accomplished; Deliverables; Status	Award Amount for Task	Expenditure Amount being Invoiced By Task	Remaining Balance

Recipient: _____

Grant #: _____

Reporting Period: _____

Explain any variations from Tasks and Expenditures planned this reporting period. Indicate what affect variations may have on the remedial action schedule and grant budget.

Identify challenges and deviations from the Scope of Work that were encountered during the reporting period and resolutions that were or will be implemented.

Provide up-to-date information on points of contact should there be any changes since the last reporting period.

The following information is needed from the financial/legal contact.

Have there been any insurance settlements or contribution actions to date? Yes ____ or No ____

If yes, please explain in detail, including amounts received and party settlement was with.

Name of Fiscal Officer responsible for receiving payments: _____

Telephone number where Fiscal Officer can be reached: _____

If you require this publication in an alternate format,
please contact Solid Waste and Financial Assistance
at 360-407-6900 or TTY 711 or 1-800-833-6388.

Appendix 4 - Chapter 173-322 WAC – Remedial Action Grants

Chapter 173-322 WAC
REMEDIAL ACTION GRANTS AND LOANS

Last Update: 2/12/01

WAC

173-322-010 Purpose and authority.
173-322-020 Definitions.
173-322-030 Relation to other legislation and administrative rules.
173-322-040 Applicant eligibility.
173-322-050 Project and cost eligibility.
173-322-060 Application process.
173-322-070 Application evaluation and prioritization.
173-322-080 Allocation of grant funding.
173-322-090 State assistance share, local cash match, economic disadvantage, and role of potentially liable persons.
173-322-100 Fiscal controls.
173-322-110 Grant administration.
173-322-120 Loans.

WAC 173-322-010 Purpose and authority. This chapter recognizes that the state contains hundreds of hazardous waste sites which threaten the state's water resources, including those used for public drinking water; that many of our municipal landfills are current or potential hazardous waste sites and present serious threats to human health and the environment; and that the costs of eliminating these threats in many cases are beyond the financial means of local governments and ratepayers. This chapter establishes requirements for a program of grants to local governments for remedial action pursuant to RCW 70.105D.070 (3)(a) and (7). The department may provide grants to local governments for remedial actions including site hazard assessments, site studies and remediations, and safe drinking water actions.

[Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-010, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-010, filed 5/1/90, effective 6/1/90.]

WAC 173-322-020 Definitions. Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC 173-340-200.

"Act" means the "Model Toxics Control Act," chapter 70.105D RCW.

"Agreed order" means an order issued under WAC 173-340-530.

"Area-wide ground water contamination" means multiple adjacent properties with different ownership affected by hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately.

"Cleanup action" means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with

cleanup standards, utilizes permanent solutions to the maximum extent practicable, and includes adequate monitoring to ensure the effectiveness of the cleanup action.

"Consent order" means an order issued under chapter 90.48 or 70.105B RCW.

"Coordinated water system plan" means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to chapter 246-293 WAC.

"Decree" means a consent decree under WAC 173-340-520.

"Consent decree" is synonymous with decree.

"Department" means the department of ecology.

"Disposal" means a remedial action which removes hazardous substances from the site and places the hazardous substances in an engineered, regulatory-complaint facility as a final destination.

"Enforcement order" means an order issued under WAC 173-340-540.

"Grant agreement" means a binding agreement between the local government and the department that authorizes the transfer of funds to the local government to reimburse it for a portion of expenditures in support of a specified scope of services.

"Hazard ranking" means the ranking for hazardous waste sites used by the department pursuant to chapter 70.105D RCW.

"Hazardous substances" means any substances as defined in WAC 173-340-200.

"Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

"Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or decree.

"Interim action" means a remedial action conducted under WAC 173-340-430 that partially addresses the cleanup of a site.

"Local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

"Minimum functional standards" means the requirements of chapters 173-304 and 173-351 WAC, the minimum functional standards for solid waste handling.

"National Priorities List (NPL)" means a list of hazardous waste sites at which the United States Environmental Protection Agency intends to proceed with enforcement or cleanup action.

"No further action (NFA) determination" means an

opinion issued by the department under WAC 173-340-515 (5)(b).

"Oversight costs" are remedial action costs of the department or the United States Environmental Protection Agency reasonably attributable to the administration of an order or decree for remedial action at a hazardous waste site.

"Pilot study" means an experiment in remedial action method, with the purpose of testing the suitability of a particular cleanup technology or process for remedial action at a particular site.

"Potentially liable person (PLP)" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with such system.

"Purveyor" means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

"Recycling" means a remedial action which permanently removes hazardous substances from the site and successfully directs the material into a new product suitable for further industrial or consumer use.

"Remedial action" means any action or expenditure to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

"Remedial design (RD)" means an engineering study during which technical plans and specifications are developed to guide subsequent cleanup action at a hazardous waste site.

"Remedial investigation/feasibility study (RI/FS)" means a study intended to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup action.

"Safe drinking water" means water meeting drinking water quality standards set by chapter 246-290 WAC.

"Safe drinking water action" means an action by a local government purveyor or other purveyor to provide safe

drinking water through public water systems to areas contaminated by or threatened by contamination from hazardous waste sites.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

"Site study and remediation" means remedial investigation, feasibility study, pilot study, remedial design, interim action or cleanup action at hazardous waste sites.

"Treatment" means a remedial action which permanently destroys, detoxifies, or recycles hazardous substances.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-020, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-020, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-020, filed 5/1/90, effective 6/1/90.]

WAC 173-322-030 Relation to other legislation and administrative rules. (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous waste investigation and cleanup.

(2) Nothing in this chapter shall modify the legal settlements and orders the department has secured with potentially liable persons for remedial action. The execution of remedies pursuant to court order or decree shall in no way be contingent upon the availability of grant funding.

(3) All grants shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-030, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-030, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-030, filed 5/1/90, effective 6/1/90.]

WAC 173-322-040 Applicant eligibility. (1) All applicants must be local governments as defined in this chapter.

(2) Site study and remediation grants. Eligibility for site study and remediation grants is limited to applicants that meet the following standards:

(a) The applicant must be a local government that is a potentially liable person (PLP) at a hazardous waste site; or owns a site but is not a PLP; or applies for a remediation grant for area-wide ground water contamination. The local government may be the sole PLP, or there may be other PLPs at the site.

(b) The local government must meet one of the following standards:

(i) The department must have required the local

government to perform some phase of remedial action, or have approved or reviewed a completed remedial action. That requirement, approval or review shall take one of the following forms:

(A) A consent decree under chapter 70.105D or 70.105B RCW requiring remedial action at the site; or

(B) An enforcement order or an agreed order under chapter 70.105D or 70.105B RCW prior to March 1, 1989, requiring remedial action at the site; or

(C) An enforcement order, consent order or consent decree under chapter 90.48 RCW requiring remedial action at the site or an amendment to such an order subsequent to March 1, 1989; or

(D) An underground storage tank (UST) compliance order; or

(E) A no further action (NFA) determination issued after completion of an independent remedial action.

(ii) The local government which is also a potentially responsible party under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) must have entered into a decree requiring remedial action at a hazardous waste site with the United States Environmental Protection Agency, provided that such agreement has been signed or acknowledged by the department in writing as a sufficient basis for remedial action grant funding.

(iii) The local government must have signed an agreement with the department requiring another PLP to perform remedial action at a landfill site and that agreement must take one of the forms specified in (b)(i) of this subsection. The local government must also have entered into an agreement with that PLP to reimburse the PLP for a portion of incurred remedial action costs with the sole purpose of providing relief to ratepayers and/or taxpayers from some remedial action costs.

(3) Safe drinking water action grants. Eligibility for safe drinking water action grants is limited to applicants who meet the following standards:

(a) The applicant must be a local government purveyor as defined in WAC 173-322-020 or be a local government applying on behalf of a purveyor.

(b) The subject water system must be in an area determined by the department of ecology to be a hazardous waste site or threatened by contamination from a hazardous waste site.

(c) The subject water system must exhibit levels of contamination which exceed the primary maximum contaminant levels (MCLs) set by WAC 246-290-310 or EPA standards as determined by the department of health, or exhibit levels of contamination which exceed the standards set by WAC 173-340-700 through 173-340-760 as determined by the department of ecology, or be certified by the state department of

health that a contaminant threatens the safety and reliability of a public water system which cannot be remedied solely by operational solutions. Contaminants must include at least one hazardous substance. If the contaminant is a nitrate or a trihalomethane, it must be determined to have originated from a hazardous waste site.

(d) An order or decree must be issued to the identified potentially liable persons requiring that safe drinking water be provided to the contaminated area as part of a remedial action. The department may waive this requirement if it has determined that no viable potentially liable persons exist, or if public health would be threatened from unreasonable delays associated with the search for potentially liable persons, or the order or decree process.

(e) If water line extensions are included in the proposed projects, such extensions must be consistent with the coordinated water system plan and growth management plan for the geographic area containing the affected water supplies.

(f) The applicant must be in substantial compliance, as determined by the department of health, with applicable rules of the Washington state board of health or the department of health, as contained in chapter 246-290 WAC (Public water supplies), chapter 246-292 WAC (Water works operator certification), chapter 246-293 WAC (Water System Coordination Act), and chapter 246-294 WAC (Drinking water operating permits).

(4) Site hazard assessment grants. The purpose of site hazard assessment grants is to involve local health districts and departments in assessing the degree of contamination at suspected hazardous waste sites according to WAC 173-340-320. While enabling local health districts or departments to participate in the scoring and ranking process, the department retains the authority to review and verify the results of a site hazard assessment and to establish the hazard ranking of the site. Eligibility for site hazard assessment grants is limited to applications that meet the following standards:

(a) The applicant must be a local health district or department.

(b) The scope of work for a site hazard assessment must conform to WAC 173-340-320 and prescribed guidelines issued by the department.

(c) The assessment must be for sites agreed to by the department.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-040, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-040, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-040, filed 5/1/90, effective 6/1/90.]

WAC 173-322-050 Project and cost eligibility. (1)

Costs for site study and remediation.

(a) Eligible costs include reasonable costs, including sales tax, incurred in performing:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Landfill closures as required by chapters 173-304 and 173-351 WAC if included in the order or decree for remedial action;

(vii) Other remedial action included in the order or decree for remedial action, or included as part of the independent remedial action for which a no further action (NFA) determination is issued;

(viii) Capital costs of long-term monitoring systems; and

(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) Ineligible costs:

(i) Retroactive costs except as limited by WAC 173-322-100;

(ii) Legal fees and penalties;

(iii) Oversight costs;

(iv) Operating and maintenance costs after the first year of accomplishing the remedial action;

(v) Operating and maintenance costs of long-term monitoring; and

(vi) At sites other than landfills, additional ineligible costs will include costs incurred to meet departmental requirements for source control and prevention.

(2) Costs for safe drinking water actions.

(a) Eligible costs include reasonable costs, including sales tax, incurred for:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

(ii) Transmission lines between major system components, including inter-ties with other water systems;

(iii) Treatment equipment and facilities;

(iv) Distribution lines from major system components to system customers or service connections;

(v) Fire hydrants;

(vi) Service meters;

(vii) Project inspection, engineering, and administration;

(viii) Other costs identified by the state department of health as necessary to provide a system that operates in compliance with federal and state standards, or by the

coordinated water system plan as necessary to meet required standards;

(ix) Other costs identified by the department of ecology as necessary to protect a public water system from contamination from a hazardous waste site or to determine the source of such contamination;

(x) Individual service connections, including any fees and charges, provided that property owners substantially participate in financing the cost of such connections;

(xi) Drinking water well abandonment for wells identified by the department as an environmental safety or health hazard according to WAC 173-160-415; and

(xii) Interim financing where necessary as a prerequisite to local government issuance of revenue bonds.

(b) Ineligible costs include:

(i) Legal fees and penalties;

(ii) Ecology oversight costs;

(iii) Operating and maintenance costs;

(iv) Retroactive costs except as limited by WAC 173-322-100;

(v) Natural resource damage assessment; and

(vi) Costs for source control or pollution prevention activities at sites other than landfills.

(3) Costs for site hazard assessments. Eligible costs include costs for activities performed pursuant to WAC 173-340-320 and enabling local health districts or departments to participate in the department's site ranking and priority-setting process.

(4) Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-050, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-050, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-050, filed 5/1/90, effective 6/1/90.]

WAC 173-322-060 Application process. (1) Application period. The department shall determine appropriate application periods.

(2) Grant applications must:

(a) Include a commitment by the applicant for local funds to match grant funds according to the requirements of WAC 173-322-090.

(b) For site study and remediation projects include a scope of work which accomplishes the requirements of an order or decree.

(c) For safe drinking water action projects, include a scope of work necessary to provide safe drinking water to the area threatened or contaminated.

(d) For site hazard assessment projects, include a scope of work which conforms to the requirements of WAC 173-340-320(4).

(e) For independent remedial actions, include a description of the remedial action for which a no further action (NFA) determination was issued and include a copy of the NFA determination document.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-060, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-060, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-060, filed 5/1/90, effective 6/1/90.]

WAC 173-322-070 Application evaluation and

prioritization. (1) When pending grant applications or anticipated demand for site study and remediation grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(a) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the United States Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority.

(b) Evidence that the grant will expedite cleanup.

(c) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(2) When pending grant applications or anticipated demand for safe drinking water action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(a) Relative risk to human health as jointly determined by the department of ecology, in accordance with WAC 173-340-330, and the department of health, in accordance with WAC 246-290-310. Sites with greater risk will receive higher funding priority.

(b) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(c) Ownership of the water system to be extended or improved. Local government-owned systems will receive higher funding priority than other systems.

(d) Number of people served by the water system and per capita cost of remediation.

(3) When pending grant applications or anticipated demand for site hazard assessment grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(a) Potential public health or environmental threat from the sites.

(b) Ownership of the sites. Publicly-owned sites will receive priority over privately-owned sites.

(c) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-070, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-070, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order

89-45), § 173-322-070, filed 5/1/90, effective 6/1/90.]

WAC 173-322-080 Allocation of grant funding. In conjunction with the biennial program report and program plan required by WAC 173-340-340, the department will prepare an administrative allocation from the legislative appropriation of the local toxics control account for funding remedial action grants. Within that administrative allocation, the department will allocate subamounts for site study and remediation grants, safe drinking water action grants, and site hazard assessment grants. The allocations shall be based on estimated costs for work on eligible sites which are identified in the program plan for the biennium.

[Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-080, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-080, filed 5/1/90, effective 6/1/90.]

WAC 173-322-090 State assistance share, local cash match, economic disadvantage, and role of potentially liable persons. (1) Except as otherwise provided in this section, costs eligible for site study and remediation and safe drinking water action grants will be considered for grant funding at up to fifty percent, except in the case of site study and remediation grants with eligible costs of over two hundred thousand dollars, local governments who utilize treatment, recycling and/or disposal as part or all of the cleanup action shall be eligible to receive an additional fifteen percent. Independent remedial action grant funds are available only for projects with eligible costs of less than two hundred thousand. The additional fifteen percent funds do not apply to independent remedial actions.

(2) Costs for site hazard assessments which are eligible under WAC 173-322-050(3) will be considered for grant funding of up to one hundred percent.

(3) Costs for area-wide ground water contamination remediation grants will be considered for grant funding of more than fifty percent. Local governments shall be required to obtain partial reimbursement from PLPs. Reasonable measures shall be taken by local governments to maximize reimbursement. The amount of grant funds and how much to pay back will be determined by the department on a case-by-case basis.

(4) Grant funding for economically disadvantaged local governments.

(a) In addition to grant funding under subsection (1) of this section, economically disadvantaged local governments may apply for up to twenty-five percent supplemental funding. This additional funding will be contingent on satisfactory demonstration of extraordinary

financial need.

(b) A local government is considered economically disadvantaged if it is a county, or a local government within a county, which meets both of the following criteria:

(i) Per capita income, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and

(ii) It is economically distressed as defined by chapter 43.165 RCW.

(c) The department will include a list of counties which are economically disadvantaged as defined herein in the guidelines for remedial action grants to be published on a biennial basis.

(5) For applicants eligible for site study and remediation grants, if a decree or order requires a potentially liable person (PLP) other than a local government to conduct remedial action, the financial contribution of that PLP will be deducted from the amount eligible for grant funding to the local government.

(6) For applicants eligible for safe drinking water action grants, funding from either the local government or the PLP may be used to match remedial action grant funds.

(7) As established by the Model Toxics Control Act, chapter 70.105D RCW, and implementing regulations, the potentially liable persons bear financial responsibility for remedial action costs. The remedial action grant program may not be used to circumvent the PLP responsibility.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-090, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-090, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-090, filed 5/1/90, effective 6/1/90.]

WAC 173-322-100 Fiscal controls. (1) The department will establish reasonable costs for all grants, require applicants to manage projects in a cost effective manner, and ensure that all potentially liable persons (PLPs) assume responsibility for remedial action.

(2) The department retains the authority to issue grants which reimburse the recipient for less than the maximum percentage allowable under WAC 173-322-090.

(3) Cap on site funding. Except for independent remedial actions where a no further action (NFA) determination is issued after cleanup has been completed, after the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by an eligible applicant, the department and the applicant will establish a final cleanup budget and negotiate a grant agreement. The grant amount in this

agreement will be the final department remedial action grant fund commitment for cleanup at that hazardous waste site. Grant agreements may be amended, but requests to increase the remedial action grant budget at that site will receive a lower priority than other applications.

(4) Retroactive funding. Grant funding of costs already incurred prior to the date of the grant agreement may be allowed to local governments where the order or decree with the department, if any, postdates March 1, 1989, and under one or more of the following circumstances:

(a) If the grant application period is closed when the order or decree becomes effective;

(b) If the department unreasonably delays the processing of a remedial action grant application;

(c) If there are inadequate funds in the local toxics control account to cover the entire scope of work required by decree or order; and/or

(d) If remedial actions not required by decree or order have proceeded, grants for this work may be made if the department later formally includes such work items in a decree or order, or for independent remedial actions conducted no earlier than five years before the date of application if a no further action (NFA) determination is given for that independent remedial action.

(5) Reimbursement of grant funds. If the department awards remedial action funds to a local government that successfully pursues a private right of action against a PLP who has not settled with the department or successfully pursues a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

(6) Repayment of grant funds. Where the department provides a remediation grant for area-wide ground water contamination to a local government, the grant amount shall be partially repaid to the department where ownership of property affected by the grant is held by private parties. The terms and amount of repayment will be included in the grant agreement between the local government and the department.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-100, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-100, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-100, filed 5/1/90, effective 6/1/90.]

WAC 173-322-110 Grant administration. (1) Local governments will be periodically informed of the availability of remedial action grant funding.

(2) A grant application package will be sent to all parties expressing interest in remedial action grants and to all local governments that have been required by decree

or order to perform remedial actions. Grant application packages will include grant guidelines and application forms.

(3) Application must be made within sixty days after the date that a decree or order becomes effective or for independent remedial actions, within sixty days of receipt of a no further action (NFA) determination.

(4) The department will prepare a guidance manual on a biennial basis to assist grant applicants and to facilitate compliance with this regulation.

(5) Appropriation and allocation of funds. Grants will be awarded within the limits of available funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the legislative appropriation of funds for the next biennium.

(6) Remedial action grants shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

(7) The department may fund all or portions of eligible grant applications.

(8) To the extent that the Constitution and laws of the state of Washington permit, the grantee shall indemnify and hold the department harmless, from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee arising out of a grant contract.

(9) All grants under this chapter shall be consistent with "*Administrative Requirements for Ecology Grants and Loans*" WDOE publication No. 91-18, revised October 2000.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-110, filed 2/12/01, effective 3/15/01. Statutory Authority: RCW 43.21A.080. 93-24-047, § 173-322-110, filed 11/23/93, effective 12/24/93. Statutory Authority: Chapter 70.105D RCW. 90-10-057 (Order 89-45), § 173-322-110, filed 5/1/90, effective 6/1/90.]

WAC 173-322-120 Loans. The department may award a loan or combination loan and grant to a grant applicant. Loan terms and the repayment provisions of a loan shall be established on a case-by-case basis under an agreement between the local government and the department.

[Statutory Authority: Chapter 70.105D RCW. 01-05-024 (Order 97-09A), § 173-322-120, filed 2/12/01, effective 3/15/01; 90-10-057 (Order 89-45), § 173-322-120, filed 5/1/90, effective 6/1/90.]

Appendix 5 - Water Resource Inventory Areas Map

This map is also located on our web site at: www.ecy.wa.gov/services/gis/maps/wria/mpl/state-bw.pdf

